The background of the entire page is a close-up, slightly blurred image of the American flag, showing the stars and stripes. In the lower-left quadrant, there is a faint, semi-transparent illustration of the scales of justice, symbolizing law and equity.

*every citizen is "entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws."*

**New Hampshire  
Citizens Commission  
on the State Courts**

Report and Recommendations  
June 1, 2006



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The chief justice of the New Hampshire Supreme Court serves as the presiding justice of the five-member appellate court. The New Hampshire Constitution also designates the chief justice as the administrative head of the entire judicial branch, which includes the four trial courts. In his capacity as chief administrative officer, Chief Justice John T. Broderick Jr. appointed 103 New Hampshire citizens to serve on the New Hampshire Citizens Commission on the State Courts in April 2005. The Supreme Court gave the Commission authority to independently assess how justice is delivered by the judicial branch from the perspective of the state's 1.2 million residents, and to make recommendations for improvements (see Appendix A). Ninety-nine citizens ultimately formed the Commission (see Appendix B).

This document is the Commission's final report to the chief justice and the members of the Supreme Court. As citizen commissioners we have come to appreciate over the past year that the judicial branch by itself will not be able to implement all of our recommendations. Many of our recommendations will require the attention of all three branches of New Hampshire government.

Part I, Article 14 of the New Hampshire Constitution, adopted in 1784, provides that every citizen is "entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without

delay; conformably to the laws." Today, in 2006, the judicial branch meets this constitutional role with 67 courts located in 42 facilities, 68 full-time judges and masters, 51 part-time judges, close to 600 employees (who serve the administrative needs of the system), an operating budget of \$63 million a year and the annual disposition of more than 225,000 cases.

As one of three branches of New Hampshire state government, the New Hampshire judiciary derives its authority from the state constitution. It derives its sustainable power to act for the public good from public trust and confidence. If the price of liberty is eternal vigilance, the New Hampshire Citizens Commission on State Courts sees this report as part of that eternal vigilance to assure that public trust and confidence in the New Hampshire judicial branch remains strong.

The Citizens Commission was organized as an advisory body (see Appendix B for complete list of Commission members). The Commission's goal was to highlight problems as seen through the eyes of the New Hampshire citizenry and formulate solutions. We present these recommendations as the major issues that we, as a group, believe require the

attention of judicial branch leaders and policy-makers to make the judicial branch as responsive as possible to the needs of New Hampshire citizens. It should also be noted that these recommendations are the result of a thorough public inquiry, as opposed to an exhaustive academic research effort on a set of public policies.

The Commission went about its work in three phases: a ten-month research phase, a three-month deliberative phase (breaking into eight working research committees) and a two-month final report writing phase. We recognize that some of our recommendations may significantly change the way the judicial branch does business today; others may have costs beyond the capacity of the current judicial branch budget to assume without significant adjustments; some can be implemented by a directive from the chief justice and others will require legislative action. The Commission's recommendations are complemented by other initiatives undertaken by the judicial branch to explore specific issues and challenges in greater detail, and several of the recommendations will likely require more research by the judicial branch as it determines whether and how to implement specific recommendations.

Following a ten-month research effort and a three-month period of discussion, deliberation and decision-making, the Citizens Commission has assembled 30 recommendations that it believes warrant action by state policy-makers to improve the delivery of justice in New Hampshire. These recommendations are made with the understanding that the chief justice and the staff will assess their viability, cost and a pathway for implementation and report back to the Commission within six months as to which recommendations he intends to pursue.

The recommendations are reported in six parts. Part One addresses what the Commission believes to be a core need of the entire court system—the improvement of customer services to consumers of court services. Part Two addresses issues related to the need to improve public access to the courts, both physical access and access to court information and court systems. Part Three addresses the need to make a greater commitment to developing and funding alternative dispute resolution and the use of mediation to avoid trials. Part Four addresses substantive issues the Commission believes the new Family Division should consider as it moves from an experiment in two counties to a statewide system in all ten counties. Part Five addresses sentencing issues. Part Six addresses extended outreach activities the Commission believes the judicial branch should develop.

In its information gathering phase (May-December 2005) the Commission conducted a series of activities to inform itself on its charge, including:

1. Published a bibliography of major state and national research papers on major issues related

# Introduction

to the judiciary, making these documents available to the Commissioners and the public on the Commission website;

2. Hosted one of five Commission meetings in 2005 with representatives from the National Center for State Courts to understand how other states have conducted similar citizen surveys of state judicial systems;
3. Hosted 11 public listening sessions around the state, receiving input from more than 100 citizens (list of meeting locations and dates in Appendix D; full transcripts available on the Commission website at [www.nhcritcourts.org](http://www.nhcritcourts.org));
4. Conducted a public opinion survey of 750 New Hampshire residents (see full survey at Commission website at [www.nhcritcourts.org](http://www.nhcritcourts.org)) through the University of New Hampshire Survey Center;
5. Invited public input by regular mail and by electronic submission.

The Commission then went into a more focused research phase (December 2005 – February 2006) and divided into eight working research committees focused on the following subjects (see Appendix E for detailed charges to each research committee):

1. Alternative Dispute Resolution
2. Communication & Customer Service
3. The Courts as a Business
4. Family Courts
5. Problem Solving Courts
6. Public Access to State Courts
7. Sentencing
8. The Third Branch

Each of these eight research committees prepared formal written recommendations supported by a narrative rationale which were presented to the full Commission. On March 13 and 20, 2006 the full Commission met in Representatives Hall in the State House to deliberate on the recommendations (see

Commission website at [www.nhcritcourts.org](http://www.nhcritcourts.org) for a complete list of recommendations considered). Two recommendations were determined inexpedient for further consideration, one was tabled without further consideration and the rest were adopted as presented or with amendments. One minority report was adopted by eleven commissioners, and appears at the end of this document. The co-chairs of the Commission drafted the final report, which was reviewed by the full Commission and adopted in its final form on June 1, 2006.

The cost of the Commission's work totaled \$77,500 (See Appendix F for report of income and expenses). Major funding came in the form of two grants, one from the New Hampshire Bar Foundation and one from the New Hampshire Charitable Foundation. Major costs were the public opinion survey conducted by the University of New Hampshire Survey Center, the administrative expenses to support the Commission's meetings and work, the construction and maintenance of a website ([www.nhcritcourts.org](http://www.nhcritcourts.org)) on which all Commission documents and information are located and the editing and printing of the final report.

Each member of the Commission served as a volunteer. As citizens, we are committed to following through with the volunteer service invested in producing this report by working to promote the adoption and implementation of these recommendations. Initial action on Commission recommendations will require the leadership and support of the chief justice and his colleagues in the judicial branch. Formal adoption of many of our recommendations will require the support of all three branches of government, executive, legislative and judicial, and of the citizenry itself. While the principal work of the Commission is complete with the presentation of this report, many Commissioners intend to invest additional time by advocating for the adoption of these recommendations.

## Recommendation #1

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The judicial branch should create a customer-service-based court environment. This can be achieved through the following measures:

- A. Designate a helper at each courthouse and a Family Law case manager in each judicial facility; set up a toll-free help line.
- B. Create a judicial branch ombudsman's office.
- C. Establish fixed and non-traditional court hours.
- D. Create judicial facilities with greater attention to litigant needs.

Initial entry into New Hampshire's courthouses is a matter of mystery to many. Questions as simple as "Am I in the right place? Where in the building will my case be heard? When will it be heard?" and many others make the experience even more uncomfortable and foreboding. To enter many New Hampshire court buildings most individuals with walking disabilities (visitors, plaintiffs, defendants, attorneys, jurors, judges, and staff) must use a locked door in the rear, which requires ringing a doorbell and speaking over an intercom to security officers. This "back door" treatment is often interpreted as being less equal to those who are able to enter the court building through the main entrance.

Each court should be staffed with a clearly identified greeter charged with meeting the basic informational needs of the public. This need not be a new position and existing court staff may be so designated. Centralized and obvious signage containing dockets, schedules and other information should be provided in an obvious place, easily noticeable upon entry.

Family Division case managers should be provided to assure that litigants understand the required forms and the proper way to complete them. Case managers will be able to provide information regarding mediation and available social services, and to explain basic procedural questions. This will save judicial time and help ensure that accurate information is provided.

A toll-free help line can also help alleviate the burden to the system of pro se litigants by providing guidance through the court process. The State of Alaska's court system provides a model for this option.

Restrictions on ex parte communication with judges, while necessary to preserve judicial fairness, are power-

ful roadblocks to litigants in receiving information.

A system-wide ombudsman should be appointed to provide the public with a valuable avenue for articulating problems and avoiding further misunderstanding. Not only will this service aid the public in voicing concerns and complaints, but the existence of an ombudsman's office will also provide the judiciary with an important channel through which to obtain information often unavailable to it. The ombudsman could also be charged with coordinating a judicial public outreach program to help educate the public about the workings of the judicial branch (see Part 6). The New Jersey and Maryland court systems provide models.

Litigants are unnecessarily losing income and incurring increased legal fees due to ineffective scheduling. Too often all cases are scheduled for 9 a.m. or 1 p.m. without regard to the probability that some cases will not be heard until much later in the day. Not all cases need to be scheduled for the same hour. Scheduling some court time during traditional non-working hours will further reduce adverse economic impact on litigants. The Commission recommends that courts be open during such hours on selected days.

Judicial facilities provide inadequate public space. Pleas and settlement negotiations take place in hallways, heavily populated areas and even outdoors. Courthouses should have work areas with adequate tables, chairs and privacy to allow litigants to complete forms and settlement documents and have private conversations. These matters are too serious to be hindered by inadequate facilities.

More and more litigants bring children to court. To avoid unnecessary distractions, waiting areas should be designated for litigants with children.

## Recommendation #2

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The judicial branch should rapidly implement and maintain an up-to-date information technology system and related equipment. Specifically, it should:

- A. Implement a system-wide computer system within two years.
- B. Make better use of video/teleconferencing to reduce physical presence at court-mandated hearings.
- C. Improve the functionality of the judicial branch website.

Any consumer-oriented business must use up-to-date technology. In the case of the judicial branch, technology can be used to help save time and money. In addition, the Web provides an opportunity for informing the public and providing training for staff. Using computers, video and teleconferencing is not without cost, but failing to do so is a failure to employ the single best means to render the judicial branch more consumer-friendly and less costly overall.

Thirty-six District Courts, 11 Superior Courts, 10 Probate Courts, the emerging Family Division and the Supreme Court schedule cases every day. Presently, each court's docket is produced with little or no knowledge of counsel schedules, resulting in frequent conflicts. Scheduling conflicts under the current system are resolved by a series of phone calls and motions to continue. While these efforts do nothing to help the litigants or their cases, they generally produce legal fees as lawyers reschedule cases. In addition, substantial court time is spent deciding those motions and providing notices for rescheduled cases. While it would be nearly impossible for the more than 58 clerks' offices to identify such conflicts under the current system, a system-wide data bank could identify most of them instantaneously.

Public access to computers should also provide uniform access to and guidance on a variety of legal forms. Pro se litigants will have a far easier time negotiating the system with such guidance.

Teleconferencing and videoconferencing eliminate travel. Such services can avoid the substantial cost of providing travel and security for some court appearances by incarcerated individuals. To the extent that travel costs and lawyer time are removed from legal bills, clients will enjoy the savings. In most cases, structuring conferences and hearings on preliminary matters could be handled by electronic conferencing. While all or some of these capabilities are already available, they are underemployed. Aside from assuring the availability of these tools, rule changes should be implemented indicating the preference for such conferencing, except in extraordinary circumstances.

The current judicial branch website is an attractive and functional communications tool. It could be improved, however, providing relevant information across a wide range of needs. The Superior Court of Arizona, Maricopa County website provides a model of excellence.

## Recommendation #3

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The judicial branch should significantly accelerate its deployment and use of information technology in the context of a technology plan to improve the courts' operating effectiveness and efficiency. Specifically, the Commission recommends that:

- A. The implementation of the Odyssey case management system be accelerated and that the judicial branch's management fully utilize the outcomes and productivity measures embedded in Odyssey.
- B. The judicial branch employ benchmark technologies such as electronic filing and notification, digital voice recording, and electronic scheduling; and adopt new practices and processes to improve the efficiency and effectiveness of the judiciary in terms of the outcomes discussed in the performance management recommendation discussed in Recommendation #5.
- C. The judicial branch put in place an Information Technology Advisory Board, perhaps from the Judicial Council, to provide ongoing, independent expert counsel on best practices in the application of information technology.
- D. The judicial branch should develop a technology plan to provide a framework for technology investment and the technical evolution of the courts. As a part of that plan, the courts should establish a limited set of IT principles to guide the plan. Processes should be designed so that each keystroke is captured only once to avoid duplication of effort and increased error rates. The judicial branch's various constituencies should be free to choose a preferred medium of exchange: telephone, hard-copy, e-mail, or the Internet.

- E. The primary driver in expanded use of technology should be to improve access to the judicial branch by its consumers. For example, the Family Division should use technology to provide pro se litigants with more direct access to information about Family Division procedures.**

Information technology represents one of the key tools available to the judicial branch to improve quality of service and to lower costs. The judiciary should judge its technological opportunities against the tests of real outcomes measures, such as reductions in time to close cases and lower cost per case. Acceleration of the Odyssey implementation, in particular, is essential to the implementation of real performance-based management across the judicial branch and the gains in effectiveness that will follow. But effective use of technology involves more than investment; it requires changes in management processes and practice. There are other immediate opportunities for technology-driven improvements in judicial branch functioning, such as electronic filing and notification. New and effective applications of technology will

continually become available. Finally, an independent advisory board can add an expert, external perspective on the best use of technology.

Using appropriate technology to streamline court scheduling would eliminate the “cattle call” of attorneys and litigants, reducing down time at the courthouse for attorneys and litigants and the resulting associated costs. Current scheduling practices, which do not provide litigants with specific hearing times, drive up the cost of representation and can translate into lost wages and/or increased child-care expenses for litigants. At the same time, certain hearings may lend themselves to telephone and/or video conferencing, reducing time and cost in travel to the courthouse.

#### **Recommendation #4**

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**The critical element in the judicial branch’s future effectiveness in serving its clientele is its human resources, the judiciary and court staff. With that in mind, the Commission recommends:**

- A. That the New Hampshire judicial branch be served by full-time judges. Specifically, this policy should be in place for all new judicial appointments, effectively phasing in the timing and cost of this policy shift.**
- B. That the judicial branch significantly increase its investment in training and development of the judiciary and court staff. This investment should include funding for and time to attend courses and seminars. Minimum standards and continuing education requirements should be established by job title and monitored in performance reviews. In addition, courts should be evaluated to determine whether staffing levels are adequate to meet current workload demands.**
- C. As the judicial branch moves to be more outcomes- (or performance-) driven in its management, job descriptions and annual reviews should include measures of personal accountability for outcomes. The human resource system should provide support, where appropriate, for remediation, assistance, and corrective action. Excellence in the delivery of superior outcomes should be rewarded through staff promotions and/or salary adjustments.**
- D. In addition to being well-trained, administrative staff should be supported in their efforts to administer justice. Management and judges should ensure that court staff feel appreciated and valued for their essential role in the fair administration of justice. Mechanisms should be in place to evaluate staff morale. If staff does not feel supported and appreciated, such dissatisfaction could effect interactions in-house and with the public. Court staff should also be involved in problem-solving in the areas of customer service and efficiency. For example, regular staff meetings which include judges will not only improve communication about upcoming changes to court policies and procedures, but will also allow administrative staff to voice thoughts, concerns, and ideas about how best to administer justice. Such strategies will create a sense of teamwork and staff investment in meeting overall goals.**
- E. That the staff compensation structure be reviewed to assure the ability of the judicial branch to recruit and retain a well-trained and qualified staff; and provide adequate staff facilities in which to work.**

New Hampshire has benefited from the talents and efforts of its judges, marital masters and staff. To meet the future demands on the New Hampshire judicial branch for high quality service and justice without continuing significant increases in expense and resources will require substantial and ongoing

productivity gains and process innovations. To attract and develop the talent necessary to achieve those high objectives will require investments in human capital. In addition, human resource management should set standards for training and expertise, reward excellence and innovation, and address

lagging performance to improve the productivity and effectiveness of all staff. Finally, the public is increasingly sensitive to real or potential conflicts of interest in both public and private institutions. Accordingly, even if part-time judges maintain high levels of impartiality and are scrupulous in dealing with persons they may serve in private law practice, the perception of possible bias and unequal or unfair treatment has the potential to erode the public's confidence in the judiciary.

The New Hampshire judicial system has remarkably competent and loyal employees. This is true despite low starting pay (\$20,125 per year for a Court Assistant II) and the fact that long-term employee salaries are capped without regard to developing expertise or outstanding performance. But for health and dental insurance and the New Hampshire Retirement System pension, there is little incentive for highly qualified employees to join or remain among the judicial branch's ranks. In most cases, private sector employment in related areas is more lucrative.

The hierarchical structure inherent in the judicial branch can create an "us-and-them" atmosphere between court staff, management and judges. One way to counter this is to involve administrative staff in problem-solving to improve customer service, efficiency and productivity. Additionally, staff workloads need to be monitored to ensure that staffing is sufficient to meet increased administrative demands. For example, the Legislature recently mandated the submission of a multi-page parenting plan for parents seeking a divorce. Processing this added paperwork has increased administrative staff workload. Little or no consideration was given to the impact this increased workload would have on staff. When new policies are created, and no additional staff is hired, existing administrative staff become

overworked, stressed and can fall behind on processing cases.

A motivated, well-trained staff is essential to first-class customer service. Without an adequate compensation structure and functional facilities, the judicial branch will suffer attrition to the qualified workforce and customer service will decline. The impending loss, due to retirement, of experienced judicial staff makes it particularly important that these recommendations be implemented quickly.

It is particularly important that the staff be involved in the quest for better customer service. Staff and judicial officers should receive continuing training regarding sensitivity, bias and court ethics. Court staff and judges should hold regular meetings where all concerned are free to express views and ideas in a continuing effort to better serve the public.

Staff should be regularly evaluated with emphasis not only on regular work performance, but customer service, problem-solving and creative thinking. Annual training sessions should be scheduled to review developments in the law and procedures, technical advancements and protocols for working with the public, including protocols for working with agitated or hostile parties. Of the \$63 million judicial branch budget, a total of \$85,000 was allocated in 2006 for education and training expenses of all judges, masters and staff.

Cramped and inadequate work areas adversely affect staff health and efficiency. In many courthouses, work areas are cramped and inefficient and lack proper security to protect staff from the risk of physical harm. This alone represents a serious failing. Unsafe environments provide but one more barrier to successfully recruiting and retaining competent employees.

## **Recommendation #5**

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**The Commission recommends that the primary management philosophy of the judicial branch be one in which outcomes govern process. To this end, the Commission recommends that the judicial branch:**

- A. Assemble a leadership group of judges and staff to recommend outcomes-based performance objectives and specific measurable goals for consideration and approval by the chief justice and the administrative judges.**
- B. Use that same leadership group to develop recommendations for reporting and review processes to be employed on quarterly and annual bases for the ongoing management of the New Hampshire judicial branch.**
- C. Use these performance objectives and measurements, and reporting and review processes, to actively manage performance throughout the entire judiciary.**
- D. Report, at least annually, on the judiciary's performance against these objectives and goals to the judicial branch's constituencies: the Legislature, governor, Judicial Council, the New Hampshire Bar Association and the public.**
- E. Review and revise the objectives, measurements, and management processes on a continuing basis.**

Today, the primary focus of judicial branch management is process, the establishment of rules that determine how every legal circumstance faced by a litigant is to be handled. This approach has the virtue of clarity and certainty. It also has three significant drawbacks. First, it may divert attention from real outcomes like timely and fair justice as it rewards the blind application of process rules. Second, it may restrain institutional progress in the judiciary. Management by process rules does not invite or engage the human resources of the judicial branch in the work of innovation and creating a better future. Third, management exclusively by process creates an ever-expanding list of process rules that make the courts less accessible to the non-lawyer and result in shelves full of court rules. The judicial branch will be best served by placing an emphasis on outcomes that define the long-term success of the judicial branch, while fully recognizing that rules are necessary for the administration of justice in individual cases.

While process is critical to operations, the judicial branch's constituencies are more interested in performance in areas they consider important: timely justice, equal access, customer service, and cost. Without recognizing those desired outcomes, measuring performance against those outcomes, and managing against those objectives, excellence in performance will always be more a matter of chance and exceptional effort than real management and leadership. Further, where an institution views its performance only against process, there is, almost by definition, no progress. Approved processes either are or are not followed. By focusing on outcomes, the judiciary can be engaged in innovation and investments to drive performance improvements. And such measures and reporting would enrich the judicial branch's communication with its constituencies.

## Part 2

# Public Access

### Recommendation #6

Recognizing the importance of protecting the rights of civil litigants in certain legal disputes, the Commission recommends that New Hampshire examine the expansion of legal representation to civil litigants unable to afford counsel and study the implementation of a "civil Gideon." In the landmark criminal case of *Gideon v. Wainwright*, the U.S. Supreme Court found that people cannot adequately navigate the legal system on their own and that going to jail is too high a price to pay for one's inability to afford legal counsel. The concept of a civil Gideon extends the premise of right to counsel to certain limited and specific non-criminal cases in which essential rights are at stake.

We aspire to be a fair and just society. Fairness and justice require the protection of essential rights for all, regardless of economic circumstances. A fair hearing when essential rights are at stake is premised on having legal counsel. As the U.S. Supreme

Court found in *Gideon*, "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel." Inability to afford representation should not mean having to surrender vital legal rights.

### Recommendation #7

**The State of New Hampshire should fully fund legal services staffing for traditional civil legal services.**

The Commission recognizes that the current network of civil legal assistance is excellent, and in many ways a model in terms of the quality of representation and level of cooperation among providers. That being said, the system is woefully overburdened. By some estimates, only 20 percent of the low-income people who need legal services are receiving them. The current delivery system is tried and true – but lacks the resources to achieve full success. The Commission urges that this system be fully funded.

Meaningful access to New Hampshire courts is limited by the inability of many people to pay for legal services. Economic and procedural barriers present challenges for a growing percentage of the population. It is estimated that among low-income citizens, only a small fraction of those involved in civil

matters have their legal needs met by the current levels of legal assistance services. Moreover, a growing segment of moderate- and middle-income citizens are unable to afford or gain access to conventional legal representation.

As a result, many people forgo use of the justice system even when they face problems in their lives that the system could address. They know they cannot afford a large retainer, so they never pursue potential legal claims.

Another option for low-, moderate-, or middle-income people who cannot afford to pay the cost of legal services is to represent themselves in court. The rise in the number of pro se litigants presents many challenges: pro se parties are not trained in the law

and hence often do an inadequate job of representing themselves. Justice is therefore compromised, resulting in pro se litigants being deprived of their full rights. The increase in the number of untrained

litigants also undermines the smooth functioning of the courts by introducing delays and inefficiencies, adding further to legal costs for all.

## **Recommendation #8**

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The judicial branch should invest in the further education of pro se litigants, including:

- A. **Creating a public education program to educate potential litigants about court procedures, available resources and issues to consider in evaluating legal needs. One such resource is referred to as “unbundled” legal services, where attorneys are permitted to work with a client on a portion of a legal case, even if they do not handle the entire case.**
- B. **Expanding the “case manager” system, ideally with a well-trained case manager in each court. That case manager would interview litigants and either make a referral to legal services providers, recommend and facilitate alternative dispute resolution, or provide procedural guidance and support if the client chooses to litigate pro se.**
- C. **Encouraging the use of non-lawyer professionals to provide basic law-related services within their areas of competency.**
- D. **Helping people involved in uncontested divorces to handle their own cases, by developing an “uncontested divorce kit” and providing paraprofessional support to guide people through the court process.**

The Commission’s conclusion is that a little bit of a lawyer is better than none at all. Keeping in mind that the ultimate ideal is to have full representation by an attorney with a thorough and integrated knowledge of the client and his/her needs, the fact is that a shrinking percentage of the population is financially able to hire an attorney in that comprehensive manner. Until the day arrives when New Hampshire can achieve the ideal, the judicial branch should assume that pro se litigants are not going to go away. It needs to recognize that pro se litigants will remain a part of the process and find ways to support and facilitate those pro se litigants.

Encouraging attorneys to provide unbundled services in appropriate circumstances will provide critically important representation to many litigants who otherwise would not have a lawyer at all. Additionally, building a “case manager” system would be a cost-effective way to triage pro se cases, deflecting many from the court system and increasing the efficiency of those that remain. For certain legal issues, lay persons can handle many tasks on their own, with assistance/guidance from a lawyer or paraprofessional. Such assistance should be made available, ranging from the development of a “kit” (as for uncontested divorces) to guide people to a clinic where attorneys, in person, walk the litigant through the necessary forms and other filings.

## **Recommendation #9**

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All courts in the State of New Hampshire must meet or exceed the requirements for compliance with federal and state laws pertaining to accessibility (structural and communicative). Currently one courthouse is not accessible for people with walking disabilities and a majority of court buildings in the state have some areas that are not accessible. All court facilities shall have provisions for:

- A. **Compliance with all applicable building codes for the removal of all structural barriers that prevent or impede physical access.**
- B. **The deployment and usage of effective and accessible methods of communication such as NH Relay, Telecommunication Devices for the Deaf (TTY), Assistive Listening Devices (ALDs), Computer Assisted Real-time Translation services (CART), Video Relay Services (VRS), accessible (508-compliant) websites and alternative formats for all printed materials (large print, Braille, audio-tape and computer disk).**
- C. **The removal of language barriers for non-English speaking citizens by providing translation services, oral or American Sign Language interpreters, and translated written materials.**
- D. **Discrete sources of funding for communication access and annual disability sensitivity training.**

Accessible court facilities are required by federal law, Title II of the Americans with Disabilities Act. In May of 2004 this law was upheld by the U.S. Supreme Court (*Tennessee v. Lane*). The following laws require accessible buildings and programs:

- The Rehabilitation Act—Section 504
- The Americans with Disabilities Act
  - Title II Regulations
  - Title III Regulations
  - The ADA Standards for Accessible Design
- The New Hampshire State Building Code—NH RSA 155-A
- The New Hampshire State Fire Code—NH RSA 153:5
- The Architectural Barrier-Free Design Code for the State of New Hampshire

Effective and Accessible Methods of Communication are required by the following laws:

- The Rehabilitation Act of 1973—Nondiscrimination on the basis of a disability—Section 504
- Electronic and Information Technology Access—Section 508 of the Rehabilitation Act
- Title II of the Americans with Disabilities Act
- Title VI of the U.S. Civil Rights Act
- The Telecommunications Act of 1996
- New Hampshire Interpreter Law RSA 521-A
- NH Interpreter Licensure Law RSA 326-I

See Appendix G for reference material and state contacts for compliance

### Recommendation # 10

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**The Commission recommends that the small claims jurisdiction of the District Courts be increased from \$5,000 to \$10,000.**

This recommendation to increase the limit on small claims is intended to reflect economic changes since that limit was increased to \$5,000.

## Part 3 *Alternative Dispute Resolution*

Part 3  
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### Recommendation #11

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**The judicial branch should recognize the effectiveness of the limited Alternative Dispute Resolution (ADR) programs presently in existence and recognize the potential for further improvement. The judicial branch should review the existing ADR programs and dedicate leadership, energy and resources to the construction, operation and review of existing and additional ADR systems. With well-established lines of authority and accountability, ADR systems could help increase the efficiency of the judicial branch in serving the needs of the public.**

The oldest ADR system (Rule 170) has been successful

in resolving 50 to 65 percent of civil cases despite a lack of funding, supervision resources and encouragement from the judicial branch. That level of success, however, is declining. With proper staffing, resources training, education and oversight, the ADR system can be revised where necessary, new programs added and existing programs expanded to be available across the entire court system. Such revision has the potential to reduce conflict, decrease costs and

improve public confidence in the ability of the judicial branch to resolve disputes.

The Commission's Concord listening session included a plea for ADR systems for juveniles, where appropriate. One system for juveniles exists in Belknap County, which diverts about 50 cases per year. That program has existed since 2002, and has an 80 percent successful completion rate. The Belknap County program emphasizes community and parental involvement and focuses on restitution in cases where property damage is an issue.

### Recommendation #12

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**The judicial branch should establish an Office of Alternative Dispute Resolution, institutionalizing ADR in the judicial branch. The Office should be responsible for overseeing the development, administration and monitoring of all court-annexed ADR programs. In addition, the Office should be responsible for establishing system-wide standards of conduct for mediators; developing criteria for training and qualifications of mediators; and collaborating with other individuals and organizations, including governmental agencies, to increase access to dispute resolution services.**

To effectively manage existing ADR programs and foster greater use of ADR, the judicial branch must establish an ADR office responsible for these tasks. Without such an office, no direct responsibility exists for the development of new programs, monitoring of existing programs, and establishing ADR standards of practice. This failure results in poorly managed programs. These problems can be overcome with the

creation of an office charged with monitoring and evaluating existing programs and developing new ones. In addition, the creation of an Office of Alternative Dispute Resolution will allow the Supreme Court to establish broad, court-wide ADR policy, ensuring system-wide adherence to its policies, including increased use of ADR.

## Recommendation #13

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**The Commission recommends that the judicial branch update and improve the current volunteer ADR program in Superior Court (the Rule 170 Program). The program should be updated and made mandatory in all counties. Deficiencies in its current administration must be addressed. The program should re-examine the use of volunteer mediators and consider ways to enhance the contributions, recruitment and retention of high-quality volunteers, while also considering the use of paid mediators.**

The Rule 170 Program is in a state of slow decline. The settlement rates are declining from a high of 75 percent in 2001 to the current rate of approximately 40 percent. Rule 170 is the oldest of the New Hampshire dispute resolution programs and does not reflect knowledge of best practices gained over the 14 years since its inception. Many litigants are opting out of the program because of the lack of skills of volunteer mediators.

In addition, the sole reliance on volunteers has hindered the expansion of the civil mediation program statewide because of an inadequate number of volunteer attorneys. In fact, it is becoming harder for some courts to find attorneys willing to mediate in the five courts where the program is mandatory. The judicial branch needs to explore methods to revitalize Rule 170 volunteerism and should explore the use of paid mediators, maintaining the availability of low-cost mediation.

Newer programs in the Probate, Family and District Courts reflect the changing need for paid, professional mediators who are dedicated to improving their skills. In these courts, mediators are hired for their skills and paid for their services. These programs have higher settlement rates, greater party satisfaction and fewer complaints.

To achieve these benefits in Superior Court, the program must be updated and given priority within the judicial branch. This initiative would:

- Increase party satisfaction with the legal process;
- Provide affordable justice to the parties;
- Reduce protracted and bitter litigation;
- Empower parties to make decisions reducing future litigation between the same parties;
- Improve court efficiency.

## Recommendation #14

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**The Family Division should make available to pro se litigants critical information about the court process, the availability of alternative dispute resolution (ADR), and the impact of family conflict on children as early in the process of a family case as possible. Such measures could improve the efficiency and reduce the adversarial nature of the process. Procedures to provide this information and support should include access to case managers by all pro se litigants, requirement of timely attendance at Child Impact Seminars, and the expanded use of technology to provide information about the court process, including ADR, at the outset of a case.**

For many pro se litigants in family cases, that case is their first contact with the court system. It is in the interest of all that this first contact be respectful and reassuring. Pro se litigants benefit from early access to knowledge and information about court conduct, rules and procedures; all available methods of handling disputes; and the effect that parental disputes have on families. Basic information on these topics can be made readily available to these litigants through the use of case managers. Case managers are trained court personnel who meet with

pro se litigants as soon as possible after the case is filed to: (a) ensure that litigants understand the court process, accurately complete court forms, and are prepared for hearings; (b) foster communication between the pro se individual and counsel representing the other litigant; (c) assist the pro se litigant in the preparation of financial information in order to use the court's time most efficiently; and (d) direct the litigants to ADR or other services. Currently there are only five case managers in the Family Division. As the Family Division expands statewide, the number of

case managers should be increased to ensure ready availability to all pro se litigants.

In addition to case managers as a resource for pro se family litigants, much of the basic information about court process and services could be made available economically and efficiently through websites and other technologies, including DVDs or CDs. Each Family Division court site should have a computer station available to the public to provide access to the court website for information and forms.

The Child Impact Seminar is required for all family litigants with children. However, currently litigants can postpone attendance until the court process is complete, which is often much too late for the seminar to have meaningful effect. The value of the seminar would be maximized if litigants were required to complete it at the very beginning of the case. Required early attendance should help reduce the occurrence of common adversarial parental behavior that is profoundly damaging to children.

## Part 4

# Family Courts

### Recommendation #15

**The judicial branch should support the statewide expansion of the Family Division during the transition period by providing sufficient staff resources, including judges, marital masters and support staff; and by training staff on family issues. Adequate staff and training resources are necessary to ensure the successful expansion of the Family Division while maintaining sufficient resources for the Superior, Probate and District Courts to meet their responsibilities during the transition.**

The transition to a statewide Family Division over the next several years will be greatly enhanced by training staff on family issues. Knowledge of and sensitivity to family issues are key determinates of client satisfaction and effective practice. In addition, the reorganization and reassignment of staff as part of the expansion of the Family Division is a considerable undertaking. Adequate staff resources must

be provided to support both the transition and the ongoing operations of the judicial branch during the period of transition. This recommendation reflects the Commission's conviction that the judicial branch already has the legislative mandate and the administrative authority to allocate adequate resources to the Family Division expansion.

### Recommendation #16

**The Family Division should actively and creatively research and experiment with all reasonable forms of alternative dispute resolution (ADR) to expand the availability and use of ADR in Family Division cases.**

According to the New Hampshire Supreme Court Task Force on Self-Representation, more than 70 percent of marital cases involve at least one self-represented party. The remaining Family Division cases involve an equally high or higher percentage of self-represented parties. Each of the major reports issued by various legislative and court committees has recommended the increased use of ADR in family-related cases. The Commission strongly supports the goal of decreasing the adversarial nature of family cases. Sensitive issues related to the well-being of children cannot be best resolved in an atmosphere of hostility. The Commission also feels strongly that the use of ADR should not begin and end with traditionally accepted forms, such as mediation and neutral case evaluation. While these are critically important and should be expanded to all cases (not just those

involving children) the Commission urges the Family Division to be creative in its attempt to offer a non-adversarial process through which families can resolve disputes by agreement rather than by court order. Initiatives such as the First Appearance, use of parenting coordinators, and the availability of Child Impact Programs offered at court locations on the same days that divorcing parents are scheduled for hearings reflect the types of creative thought and experimentation that the Commission believes should continue as a priority of the judicial branch. While the Commission is aware of the efforts of the judicial branch to advance ADR at all court levels, it urges that a special emphasis be placed on the Family Division. ADR holds the greatest potential for positive change in the current family law process.

## Recommendation #17

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The Commission recommends that the judicial branch critically review its use of guardians ad litem in family cases in light of the statewide expansion of the Family Division and its increased use of alternative dispute resolution (ADR). The Commission further recommends that all guardians ad litem receive more comprehensive training and supervision than is presently the case and that the cost of services provided by guardians ad litem be thoroughly examined.

With the statewide expansion of the Family Division and its emphasis on one case/one judge and on the increased and creative use of ADR, it is crucial that the judicial branch examine how, when, and why guardians ad litem are appointed in family cases.

The complex issues of how to address concerns about the role, cost, training, supervision and discipline of guardians ad litem have been examined by a number of legislative, judicial and other public entities in the past ten years. It was beyond the scope of the work of this Commission to make definitive recommendations about possible solutions to these issues. However, because of the public concerns with aspects of

the system, the Commission strongly recommends that the judicial branch place this topic on a list of concerns that require further review and examination. Possible strategies to address concerns about guardians ad litem in family cases include, but are not limited to:

- Requiring that all guardians ad litem be certified according to a set of best practice standards;
- Expanding the regulatory authority and funding for the Guardian ad Litem Board;
- Developing a variant of the public defender/contract attorney model to provide guardian ad litem services in family cases.

## Recommendation # 18

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Effective sentencing practices require a significant degree of coordination and consultation among policy-makers, judges, prosecutors, defense attorneys, corrections officials and others. The judicial branch should establish a standing committee to develop, implement and advocate for a just and cost-effective sentencing strategy for the state.

The Commission's Sentencing Research Group heard from state legislators, District and Superior Court judges, prosecutors, defense lawyers, police, and county and state corrections officials. The Research Group discovered that a substantial consensus exists throughout these relevant professions about the challenges confronting New Hampshire in the area of criminal sentencing, and the proper responses to those challenges. Given that substantial consensus already exists among professionals in the field, the Research Group concludes that the most valuable step the court could take is establishing and supporting a forum in which information can be exchanged and implementation strategies devised.

The Interbranch Commission on Criminal and Juvenile Justice addressed these issues in the past, but has become defunct in recent years. The Commission recommends that such a group be revived. Among its first tasks would be to invite leading policy-makers to a day long information-sharing session. At such a session, the extraordinary learning experience shared by members of the Sentencing Research Group could be reproduced for the policy-makers whose participation is essential to the successful implementation of reforms such as those detailed in the recommendations below.

## Recommendation # 19

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Pretrial diversion programs and alternatives to incarceration should be uniformly available throughout the State of New Hampshire.

Judges, prosecutors, defense attorneys, police, and corrections officials almost universally agree that the current system of sentencing is neither cost-effective nor does it provide crucial rehabilitative programs. Despite this agreement, the state has been unable to address this issue in a meaningful way. The Commission believes that in appropriate cases, it is imperative to have alternatives to traditional sentencing available, thus allowing individuals to address the

issues that brought them in contact with the criminal justice system and, if possible, to be educated and rehabilitated, ultimately reducing costs and future criminal behavior. This is particularly true with non-violent first offenders. Studies clearly establish that effective diversion programs reduce recidivism.

Between 1981 and 2003, New Hampshire's prison population grew by 600 percent, from approximately

<sup>1</sup> Richard A. Minard, Jr., Locked Up: Corrections Policy in New Hampshire, Paper 2, February 2004, and Douglas Hall, Six Program Fueled State Spending Increases, 1993-2003, NH Center for Public Policy Studies.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Katherine Merrow and Richard Minard, Under the Influence Part 1, pp. 3 and 22, and Under the Influence Part 2, p. 47, NH Center for Public Policy Studies, October 2002 and February 2003.

350 to 2500 inmates, largely driven by legislation passed in 1982 increasing the length of time offenders serve for their crimes, and by the incarceration and re-incarceration of parole and probation violators.<sup>1</sup> During this time the Department of Corrections' operating budget rose from \$5 million to \$79 million.<sup>2</sup> It was the third-fastest growing government function supported by the state's general fund.<sup>3</sup> The counties spent \$33 million on county houses of correction in 2001, of which only one percent was devoted to treatment. County and state spending on incarceration in FY 2001 totaled \$102 million, while spending on alternatives to incarceration totaled \$1.6 million.<sup>4</sup> New Hampshire spends millions to house offenders whose substance abuse issues contributed to their criminal behavior. But these offenders are provided no substance abuse treatment in jail and are released on parole or probation with inadequate treatment and supervision. Making treatment a priority would cut down on the recidivism rate and on the overall cost of administering criminal justice.

A percentage of those sentenced to prison need to be incarcerated for both punishment and protection

of the community. However, there are numerous inmates who are sentenced to jail because alternatives to incarceration do not exist statewide. Although there are various pretrial diversion programs and alternatives to incarceration throughout New Hampshire, a consistent array of alternatives and sanctions is not available. Some of these alternatives, such as the Merrimack County FAST Program and the programs instituted in Strafford County, are successful. The Department of Corrections Academy Program has been shown to protect public safety and be cost-effective when used instead of prison,<sup>5</sup> but is used more in some counties than in others. Some county correctional institutions have utilized electronic monitoring with great success, but monitoring is not available in all counties.

New Hampshire must design and institute comprehensive, statewide pretrial diversion and alternative programs. These programs should be designed to protect public safety, compensate victims of crime and deter future criminal behavior. By utilizing these alternatives, we would rehabilitate offenders, save money and reduce crime.

## Recommendation # 20

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**In order to protect public safety and provide thorough monitoring of the rehabilitation efforts of offenders, the judicial branch should work with the Legislature and the Department of Corrections to expand correctional supervision in communities and ensure that New Hampshire has enough probation and parole officers to provide that expanded supervision. The judicial branch should work with the Department of Corrections to ensure that judges are trained to deal with offenders with substance abuse issues in a manner consistent with substance abuse treatment models employed by New Hampshire's correctional programs.**

The judicial branch relies on Department of Corrections field offices to provide effective supervision of probationers and parolees sentenced in Superior Court cases. However, these resources are largely unavailable to the District Courts. If District Court judges were provided the resources to order offenders to be placed under correctional supervision, judges would get more information from those supervisors more promptly about noncompliant offenders, enabling a swifter community response to people who pose a threat to public safety. This system could also help provide for the pretrial supervision of offenders, which can help reduce county jail populations, and, in many cases, keep breadwinners employed and supporting their families while awaiting trial.

Currently, no comprehensive substance abuse treatment model informs the training of both judges and Department of Corrections staff. Providing training for judges on matters related to the substance abuse problems of offenders, and pairing that training with substance abuse treatment models employed by the Department of Corrections, will enable the criminal justice system to employ a comprehensive correctional and community approach to substance abuse treatment for offenders. This approach could be employed to rehabilitate offenders who are amenable to substance abuse treatment and can be safely supervised in the community and will better enable the courts to deal with those offenders who are not amenable to treatment and who pose a threat to public safety.

## Recommendation # 21

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**New Hampshire should provide appropriate, timely, and adequate treatment for substance abuse at all phases of the interface of individuals with the criminal justice system, including pretrial, post-sentencing, and incarceration.**

Substance abuse is present in 75 to 85 percent of New Hampshire criminal offenders and is a contributing factor in a wide variety of crime. Alcohol and drug-related crimes committed during 2001 alone cost New Hampshire approximately \$144 million. Although research shows that appropriate treatment reduces alcohol and drug use and criminal behavior, such treatment is often unavailable. Of an estimated 12,700 offenders in need of substance abuse intervention during 2001, New Hampshire's publicly funded treatment system had the capacity to serve only 4,700, leaving approximately 8,000 offenders with no treatment unless they purchased it through the private market.<sup>6</sup>

Successful treatment of substance abuse is a major factor in reducing recidivism. There is probably no

more significant investment that New Hampshire could make to cut down crime, recidivism, and the expenses related to crime and incarceration than to assure that appropriate substance abuse programs are available at each stage of the criminal justice process, and that those who are incarcerated can receive treatment during the terms of their sentence. New Hampshire is considering building a new secure prison facility. The Commission believes that the state should consider instead investing in the establishment of a substance abuse program of excellence that addresses needs present in all aspects of the criminal justice system, including a residential treatment facility. That we currently do not have a substance abuse program at the state prison, but rather an "education" program, is a significant missed opportunity.

<sup>6</sup> Katherine Merrow and Richard Minard, Under the Influence Part 1, pp. 3 and 22, and Under the Influence Part 2, p. 47, New Hampshire Center for Public Policy Studies, October 2002 and February 2003.

## Recommendation #22

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**The State of New Hampshire should provide adequate space in its sex offender treatment program so that offenders are able to complete the program while serving their prescribed sentences rather than having to extend time in prison to complete this requirement.**

Many inmates are incarcerated beyond their required terms because they cannot gain admission to their court-ordered sex offender treatment program due to inadequate program capacity. Currently, there are approximately 300 inmates on the waiting list

unable to enter the program. Those inmates will not complete the program before their parole eligibility dates. Hence taxpayers and the prison system end up spending more money on incarceration than they would by expanding the treatment program to meet the need.

## Recommendation #23

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**The judicial branch should expand the use of a problem-solving justice model in dealing with mental health issues, certain drug offenses, and other family-related legal problems when it can do so consistent with public safety.**

**New Hampshire's successful experiments with drug courts in a number of locations and with a mental health court in Cheshire County warrant an expanded, statewide problem-solving approach to certain carefully defined matters which come before the judiciary, particularly those matters involving non-violent, first-time offenders. This problem-solving approach can result in more successful long-term solutions for certain drug offenses, or in cases where there are significant mental health issues or family-related problems. These cases are among the most difficult in the judicial branch's caseload, and this approach can pay off in reduced recidivism and more efficient use of judicial time and energy.**

Across the country, drug courts, mental health courts, domestic violence courts, and some forms of family courts have earned support because of their success at resolving chronic underlying causes of criminal or other inappropriate behavior. Under a problem-solving approach, judges can mandate treatment or therapy for defendants.

The traditional role of courts and judges is to provide a fair process, through an adversarial forum, moder-

ated by an impartial judge, according to agreed-upon rules and procedures. Under a problem-solving model, the focus is on treatment for the defendant's underlying problems and the outcome of that treatment, i.e. adjusted behavior. While traditional proceedings focus on past behavior and its consequences, a problem-solving approach is directed at current and future behavior. In cases in which an underlying medical, psychological, or social problem

that resulted in criminal behavior could be resolved through such an approach, the judicial branch should employ the problem-solving model, when they can do so while maintaining public safety.

#### *Advantages of a Problem-Solving Approach*

- The problem-solving justice approach is effective. Studies of drug courts, for example, show that drug court programs reduce recidivism by an average of 13 percent. Drug courts successfully treat thousands of substance-abusing individuals each year. Such programs are more cost-efficient than incarceration, ease prison overcrowding and have the effect of reducing the number of drug-exposed infants and children (thus avoiding associated medical costs). Other types of treatment courts have had similarly successful outcomes.
- Problem-solving programs require and promote systemic collaboration. Treatment providers, local governments, law enforcement, prosecution, defense counsel, private counsel, multiple state agencies and the courts are all required to communicate and cooperate in order to run these programs. This process of collaboration has the potential to develop good will and institutional relationships that benefit the judicial branch in multiple ways for years to come.
- Defendants are held accountable. The system demands respect and gets compliance. Defendants—whether drug addicts, mental health patients, abusive parents or cohabitants or teen smokers—comply with the orders of the court or face the consequences: frequently the imposition of a sentence for an already-entered guilty plea.
- Public appreciation for the judiciary increases. Examples of personal triumph over adversity, of caring and dedicated judges, and of firm but compassionate programs—all in the context of public safety—go a long way toward developing public trust and confidence in the judiciary. The resulting atmosphere of success and satisfaction without the grind of the adversarial process also rejuvenates judges and energizes staff.

#### **Recommendation #24**

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**The State of New Hampshire should work to ensure that women who are incarcerated in New Hampshire are provided comparable conditions of confinement and equal educational, vocational, treatment and rehabilitative opportunities as men.**

Based upon testimony and evidence received by the Commission's Sentencing Research Group, it is clear that women who are incarcerated in New Hampshire have fewer educational and vocational programs, less treatment and inadequate and inequitable rehabilitative services available to them than male inmates do. Female state prison inmates are housed in a facility that is widely viewed as inadequate. The population of women prisoners in the New Hampshire State Prison system grew from 23 in 1983 to 182 in 2003, an increase of close to 700 percent. According to a study conducted by the New Hampshire Commission on the Status of Women ("Double Jeopardy," December 2004), in 2000 the New Hampshire Department of Corrections reported spending \$4,564 less annually per female inmate as compared with male inmates at the New Hampshire State Prison for Men and \$1,906 less annually compared to inmates at the Northern New Hampshire Correctional Facility at Berlin. That study's authors emphasized

the significance of this finding further, showing that women are more expensive than men to incarcerate, largely due to increased medical costs and the need for more intensive therapy interventions.

The New Hampshire State Prison for Women in Goffstown has no on-site medical unit, is out of compliance with American Correctional Association accreditation standards for cell space, lacks adequate space for appropriate therapeutic rehabilitative training and educational programs and lacks adequate accommodations for attorney and family visits. As the Commission on the Status of Women study found, the large majority of female inmates are low-risk, non-violent offenders. They occupy expensive prison space better reserved for violent offenders who pose a clear and present danger to public safety. Additionally, without effective rehabilitation, inmates released into the community face the same set of risks and motivations—addiction, mental illness and poverty—that led to criminal behavior and incarceration.

# Judicial Branch Outreach

## Recommendation #25

**The Commission urges the judicial branch and judges of trial courts to more actively educate the New Hampshire citizenry about the importance of a vital and independent judiciary. This is the responsibility of each judge and marital master.**

The Commission believes that there is great value in strengthening general public understanding of the complementary and balancing roles of the three branches of New Hampshire state government. The judiciary, as the one unelected branch of government, has a particular interest in furthering such understanding by working cooperatively with the leaders of the other branches to engage in civic education programs that would serve to enhance the cooperation and respect among the branches. The judiciary should take the lead in examining the feasibility of organizing a statewide series of symposia on the topic of "Your Government and How it Works." Ideally this series (in schools, town halls and community centers) would feature informal presentations by the governor, legislative leaders and the chief justice followed by dialogue and discussion amongst the government leaders and the public.

The judicial branch is the unique part of a set of interdependent governing institutions. The uniqueness of the judiciary is that it alone among the governing institutions is unelected. The governor, members of the General Court, and executive councilors restore and recharge their standing with the electorate every

two years via the vote.

The unelected judiciary, appointed for life on good behavior, is the democratic and republican anomaly. It is a "democratic" anomaly because of its appointive (albeit with Executive Council approval) nature. It is a "republican" anomaly because in an elected-representative system of government, judges are appointed, essentially for professional "life," for reasons of affiliations, beliefs, and the high qualities of their professional and legal standings. Put differently, the judiciary is the unrepresentative branch of our government. Its standing in our representational, majority-rule democracy is therefore more tenuous. Further, it is precisely following occasions when controversial and enduring conflicts come to a head, in cases such as the Claremont school-funding case, that members of the judicial branch must redouble their efforts in setting out their reasoning and interpreting their decisions to those most affected, in this case, the tax-paying voters.

## Recommendation #26

**The Commission recommends that the judicial branch initiate a vigorous educational outreach campaign on multiple fronts to address the lack of broad public understanding about the judicial branch that exists among a significant portion of New Hampshire citizens. The Commission recommends that a staff position within the judicial branch be created to establish and administer this outreach program. Linkage with We The People, Kids Voting New Hampshire and other public school programs should be employed to explain the court system and make it more relevant to this group of soon-to-be-served citizens.**

It is apparent that New Hampshire's judicial branch is a mystery to most citizens. This is a barrier to effective use of the courts. The public must understand the value, role and limits of the system.

According to a study conducted by the University of New Hampshire Survey Center (see Appendix C), only four percent of New Hampshire's population reported being very familiar with the state courts. Another 34 percent reported being somewhat familiar with the court system. It is the remaining 62 percent of the population, as well as New Hampshire's school children, who need more exposure to how the judicial branch operates. Additionally, with 73 percent of those surveyed reporting that they get most of their information from news media, more attention needs to be paid to how the courts are portrayed in New Hampshire media. This information gap is an opportunity for New Hampshire's judicial branch

to educate the public on how it works, how it plans to change, and also on its limitations and on its relevance to today's needs.

The judicial branch website ([www.courts.state.nh.us](http://www.courts.state.nh.us)) should provide information on the outreach campaign and should be used in the campaign's delivery.

When the campaign is unveiled, key leaders of the judiciary should be its spokespeople and should explain their own efforts to make the judicial branch more user-friendly. Each judge should be engaged in this campaign either as a member of the speakers' bureau to present speeches to strategically selected audiences or as a writer of materials to facilitate the campaign. Articles and speaking engagements on private and public broadcasting facilities should explain the history of the courts, why they exist in their current structure, and how they are changing to better serve the public.

## Recommendation #27

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The judicial branch must maintain constructive working relationships with executive and legislative branches. The Commission recommends to this end, that:

- A. The judicial branch continue its activities to develop and maintain constructive working relationships with the leadership of the legislative and executive branches, while incorporating procedures and safeguards to promote transparency and minimize risk to the judicial branch's reputation for decisional independence.
- B. Specifically, the judicial branch should develop and adopt a written policy statement setting forth the objectives for conducting such outreach activities, outlining the permissible subjects of such activities, stating what subjects will not be pursued through such activities, and establishing a process for selecting the person or persons authorized to conduct such activities on the judicial branch's behalf.
- C. The policy statement should be made available to the public.

The Commission's Third Branch Committee appreciated the opportunity to consult with Chief Justice Broderick, along with the chief justice of the Superior Court, the administrative judge of the Probate Court, the administrative judge of the District Court and Family Division, and judicial branch administrative officials, to learn about recent efforts to rebuild and strengthen inter-branch working relationships in connection with judicial branch budgeting and other operational issues.

The committee also met in separate sessions with the Governor, the Speaker of the House and the President of the Senate. In general, leaders of the executive and legislative branches agreed that working relationships had improved, and expressed approval of the court system's efforts. However, certain cautions also were expressed: 1) Most advocacy should be conducted "on" and not "off" the record. 2) Court system representatives should be consistent, candid and fully informed. 3) Mechanisms should be set up to invite opportunities for the executive and legislative branches to communicate with representatives of the court system.

There have been statements in the media suggesting that the judicial branch's decisional independence has somehow been compromised by its efforts to improve its working relationships with the other branches of government. Without accrediting their accuracy, such statements, as well as the constructive comments from the Governor and legislative leaders, demonstrate that the judicial branch's improved inter-branch outreach efforts can generate risk to the court system's reputation for decisional independence, if not pursued openly and carefully.

The Commission believes that the judicial branch's reputation for decisional independence is fundamental, and risk of damage to that reputation must be avoided or minimized. The Commission concludes that a written and publicly available policy statement for conducting the judicial branch's inter-branch outreach activities, if well-constructed and carefully adhered to, can improve the effectiveness of such activities, while at the same time reducing the risk of harm to its reputation for decisional independence.

## Recommendation #28

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The Commission recommends the retention of RSA 9:4-a, that outlines the current budget process, but believes that:

- A. The judicial branch would benefit from consulting with the governor's budget director to obtain the governor's advice and expertise in preparing its budget for submission to the Legislature.
- B. The judicial branch should voluntarily participate in the governor's budget hearings to give the Governor, the Legislature, and the public an additional opportunity to understand the judicial branch's budget.

Pursuant to RSA 9:4-a, the chief justice of the Supreme Court submits the judicial branch budget to the Administrative Services commissioner, who includes the request in the governor's budget for submission to the Legislature. The governor is not permitted to alter the amounts requested by the judicial branch.

The Commission's Third Branch Committee met with the Governor, the Speaker of the House and the Senate President regarding the judicial branch. The leaders agreed that the judicial branch had greatly improved the information it provided to them during the budgeting process, however, they noted that the judicial branch would benefit from receiving the

advice and expertise of the governor's budget director and from participating in the same process as other agencies in preparing its budget for submission to the Legislature.

## **Recommendation #29**

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The Judicial Council should play a role in the follow-up and implementation of this Commission's recommendations, and the Commission further recommends:

- A. That the Judicial Council continue its activities to improve the administration of justice in New Hampshire, taking full advantage of its statutory authority to serve as an institutional forum for the ongoing and disinterested consideration of issues affecting the administration of justice, and acting as a conduit for communication between the judicial, executive and legislative branches.
- B. That the Judicial Council develop and adopt a written policy statement setting forth objectives for the Council to achieve, including serving as a forum for individuals and groups (such as the Citizens Commission on the Courts) to bring matters of concern forward and to agree upon ways to modify practices and procedures to serve the ends of the justice system.
- C. That the General Court shall provide adequate funding to the Judicial Council as may be necessary and prudent to accomplish these objectives.

The Commission researched the purpose and objectives of the Judicial Council, including the statutory authority outlined in RSA 494: The Judicial Council. The Judicial Council was established by the Legislature in 1945 "to serve as an institutional forum for the on-going and disinterested consideration of issues affecting the administration of justice." The Council is comprised of five members of the judicial branch, the attorney general, a clerk of the Superior Court and a clerk of the District and Municipal Courts, the president-elect of the New Hampshire Bar Association, the chairs of the Senate and House Judiciary Committees, eight members appointed by the governor and council, and five

members appointed by the chief justice of the Supreme Court.

In recent years, the activities of the Judicial Council have focused on administration of funding for both criminal and civil legal assistance for disadvantaged New Hampshire citizens, as well as on legislation relating to the administration and funding for legal assistance programs.

The Commission suggests that the Judicial Council is the appropriate forum for inclusion and administration of these recommendations for improvement.

## **Recommendation #30**

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The Chief Justice of the Supreme Court should issue an interim report to the full Commission within six months of the submission of this report, and a final report on the implementation of the recommendations contained in the Commission's report within one year.

# Minority Report

*The Commission provided all Commissioners with the opportunity to file minority reports. In order to print a minority report within the body of this report, the Commission co-chairmen decided that ten commissioners must sign onto any report filed as a minority report.*

*One minority report, submitted by Commissioner Ralph Littlefield, was additionally endorsed by Commissioners Albert Leahy, Alan Cantor, Clyde Terry, Sally Davis, Gail Barba, Paul Clements, Cheryl Killam, Elizabeth Lown, John Hennessey, Hon. James Barry, and Claudia Nixon.*

*Originally this minority report was presented as a recommendation by the Public Access Research Committee chaired by Mr. Littlefield. A majority of the Commission voted on March 20, 2006 to table this recommendation without further consideration. The full minority report is as follows:*

<sup>7</sup> Many legal issues affect large numbers of people in similar ways. Some of these can be efficiently addressed by the recruitment of a panel of private lawyers who would be willing, pro bono, to bring a systemic challenge to particular procedures or practices. The private bar would not ordinarily accept such cases, because they require a large investment of unpaid attorney time. But in the spirit of public service, we believe a number of attorneys would be willing to cooperate with the Citizens' Advocate and accept cases that could potentially benefit a great many people who otherwise could not afford legal representation. This could greatly increase the enforceability of legal rights beyond what the current staff of legal services organizations can provide.

The judicial branch should study the need for the creation of an Office of the Citizens Advocate. This Office would provide an ongoing mechanism for citizen input to the New Hampshire judicial branch as it continues to improve services that address the needs of the general public. If the judicial branch concludes that the interests of the citizens would be served by such an advocate, then it should take steps, legislative or otherwise, towards implementation.

### **This minority report recommends the following:**

- 1. The judicial branch should seriously consider the creation of an Office of the Citizens' Advocate, to assure that the legal system is addressing the needs of average residents of New Hampshire. The Citizens' Advocate would be modeled after the New Hampshire Public Utilities Commission's Consumer Advocate.**
- 2. The Citizens' Advocate would work with an Advisory Board comprised of New Hampshire citizens. The Advisory Board's charge would be to represent the public by providing advice and feedback to the Citizens' Advocate and the Court System on issues that affect citizens' access to the courts. For example, the Advocate and its Board would continue the work of the present New Hampshire Citizens Commission, as a support to the chief justice as he proceeds with his review, consideration and implementation of those recommendations adopted from the New Hampshire Citizens Commission's Report.**
- 3. The Citizens' Advocate would work to assure that the New Hampshire judicial branch continue its efforts to meet the legal needs of New Hampshire's citizens. The Office would monitor the system and advise the judicial branch about procedural changes that might be implemented to continue to improve efficiency and make the courts more consumer-friendly.**
- 4. The Advocate would also evaluate trends in legal issues and court results which might have widespread impact on litigants and the general citizenry. The Advocate's Office could then recruit volunteer attorneys willing to take on systemic advocacy on behalf of average citizens.<sup>7</sup>**
- 5. The judicial branch could also study the need to empower the Office of Citizens' Advocate to bring cases on its own, in order to address the needs of New Hampshire's citizens regarding particular issues they could not otherwise afford to address.**
- 6. The Office of the Citizens' Advocate and its Advisory Board might also conduct periodic, systematic studies of legal needs that are not presently being addressed across the state. The Citizens' Advocate could then lead the effort to make the necessary solutions a reality.**

In order to obtain a fair resolution to their legal issues, average people need access to a lawyer to advise them on their rights and duties, and to assist them in advocating for their legal interests. New Hampshire's system of legal assistance was created to assist New Hampshire's low-income population. But today, people with moderate and middle incomes are also unable to afford private lawyers to represent them, and they are ineligible for traditional legal services programs.

This minority report recommends that the judicial branch consider creating an Office of the Citizens' Advocate, to make the kind of work our Citizens Com-

mission (and other groups) are doing sustainable into the future. The Citizens' Advocate could be modeled on the Public Utilities Commission (PUC) Consumer Advocate (for utility issues), or on similar programs adopted in other states (sometimes called "Public Advocate" programs). The Citizens' Advocate would look at the justice system through the eyes of average people, and work to assure that that system meets the legal needs of average people.

The Office of the Citizens' Advocate should undertake a systematic study, in detail, of exactly what kinds of legal needs are not being served adequately in New Hampshire. In which geographic areas, at which

income levels, for which types of legal issue, are the unmet needs the greatest? The “needs assessment” should not be limited to the needs of people who litigate pro se in court. The study should also include the legal needs of people who despair of even entering the legal system because they know they cannot afford to pay for the legal representation necessary to have a fair chance to vindicate their rights. It is well known that family law cases have a high number of parties unable to afford legal representation. But other legal problems no doubt exist where people would be better off if they could obtain legal representation but do not have access to it because of a disability or financial, language, or cultural barriers. The needs assessment would determine where the needs are and analyze what kind of solutions might best address each particular need. The Citizens’ Advocate would then lead the effort, together with the judicial branch, to make the necessary solutions a reality.

In addition to this needs assessment, the Citizens’ Advocate could help judicial branch personnel understand what litigants are trying to accomplish in their court positions and filings. This would reduce the misunderstandings that sometimes arise where litigants are untrained in the language or procedures of the law and unable to afford legal representation. The Advocate’s staff might also be able to refer litigants to an advocacy group or a lawyer providing “unbundled legal services” (as recently approved by the Supreme Court), who can help the litigant to express her/his claims in a way that fits within the

framework of accepted legal principles so the court can address the real issues in the case.

Through these and other means, the Citizens’ Advocate would monitor the legal system and advise the judicial branch as to whether there are any systemic procedural problems that the judicial branch should address (like the suggestion for case managers that has been proposed over the last few years), including changes that might be necessitated by changes in New Hampshire’s demographics (e.g., the need for language interpreters or the need to accommodate an increasing number of elderly people) or by changes in types of cases filed. The Advocate’s staff would also evaluate trends in legal issues and court results which might have widespread impact on litigants and the community. As to the latter issues, the Advocate’s Office might refer cases to volunteer attorneys willing to take on systemic advocacy on behalf of average citizens, or such issues could be referred to advocacy organizations such as New Hampshire Legal Assistance (if the client is low-income), the Disabilities Rights Center (if the client has a disability), consumer groups, etc., to be approached from a class-wide or systemic perspective. Such a systemic approach would save the judicial branch and the public from having to expend all the resources that would be wasted if every individual brought her/his concerns to the court separately.

An Advisory Board representing the public should be appointed to provide advice and feedback to the Citizens’ Advocate.

**THE STATE OF NEW HAMPSHIRE  
SUPREME COURT OF NEW HAMPSHIRE**

**ORDER**

The purpose of this order is to clarify the authority of the New Hampshire Citizens Commission on the State Courts, which was established by the Supreme Court in April 2005.

In the conduct of its work, the Commission shall act independently of the Supreme Court and Judicial Branch and shall have the following authority:

- to apply for, obtain, and administer grant funds and other contributions of money, goods, or services;
- to hire, set the compensation of, and direct such persons as may be necessary to assist the Commission in its work, provided however that no member of the Commission may be so compensated;
- to prepare and administer its own budget covering the expenditure of such grants and other contributions as the Commission may receive; and
- to contract for necessary goods and services.

All Commission meetings, records, and other events shall be open to the public.

July 27, 2005

ATTEST:

Eileen Fox, Clerk  
Supreme Court of New Hampshire

## Commission Members

Will Abbott, co-chair	Holderness, NH	Michael J. Kenison	Manchester, NH
Katharine Eneguess, co-chair	Jaffrey, NH	Representative David H. Kidder	New London, NH
Blake Allen	Plymouth, NH	Cheryl Killam	Concord, NH
Attorney General Kelly A. Ayotte	Concord, NH	Representative William V. Knowles	Concord, NH
Jonathan P. Baird	Claremont, NH	Mary Krueger	Concord, NH
Gail Barba	Concord, NH	Rev. Dale S. Kuehne	Manchester, NH
Attorney Kenneth J. Barnes	Concord, NH	Attorney Ann McLane Kuster	Hopkinton, N.H.
The Honorable James J. Barry	Concord, NH	The Honorable Albert D. Leahy, Jr.	Claremont, NH
Dr. Eugene E. Berg	Bedford, NH	Ralph Littlefield	Concord, NH
Charles G. Bickford	Manchester, NH	Elizabeth Lown	Amherst, NH
Anne B. Botteri	Manchester, NH	Attorney Tricia H. Lucas	Manchester, NH
Raymond Bower	Dover, NH	The Honorable Robert J. Lynn	Concord, NH
John J. Brady	Manchester, NH	Mark MacKenzie	Hooksett, NH
Representative Harriet E. Cady	Deerfield, NH	The Honorable John R. Maher	Concord, NH
Attorney Daniel J. Callaghan	Manchester, NH	Attorney Marilyn T. Mahoney	Manchester, NH
Attorney Michael R. Callahan	Concord, NH	Virginia Martin	Concord, NH
Alan M. Cantor	Bow, NH	Attorney Joseph M. McDonough	Manchester, NH
Byron O. Champlin	Concord, NH	Catherine P. McDowell*	Gorham, NH
Richard Chevrefils	Concord, NH	The Honorable James E. Michalik	Concord, NH
Paul M. Clements	Concord, NH	US Marshal Stephen R. Monier	Goffstown, NH
Margo Connors	Sugar Hill, NH	Michael A. Morgan	Barrington, NH
John D. Crosier, Sr.	Concord, NH	Laurie Bogart Morrow	Freedom, NH
Donna E. Davey	Concord, NH	John Moulis	Berlin, NH
Sally Davis	Thornton, NH	The Honorable Tina Nadeau	Concord, NH
Joseph Diament	Portsmouth, NH	Claudia D. Nixon	Concord, NH
Ross A. Doerr*	Concord, NH	The Honorable Stephanie T. Nute	Concord, NH
Ida Dzuira	Londonderry, NH	Danny H. O'Brien*	Rye, NH
Harland Eaton	Auburn, NH	Jeffrey B. Osburn	Manchester, NH
Lewis Feldstein	Concord, NH	Michael Ostrowski	Manchester, NH
Attorney Bruce W. Felmy	Manchester, NH	Andrew Peterson	Peterborough, NH
Retha Lindsey Fielding	Plymouth, NH	Terri L. Peterson	Lancaster, NH
Mary E. Francoeur	Portsmouth, NH	Sheriff Michael L. Prozzo, Jr.	Newport, NH
The Honorable Francis Frasier	Concord, NH	Captain Mark A. Putney	Manchester, NH
Nina C. Gardner	Concord, NH	Attorney James M. Reams	Kingston, NH
Attorney Janine Gawryl	Nashua, NH	John Riley	Manchester, NH
Donald W. Gendron	Bedford, NH	The Honorable L. Phillips Runyon, III	Concord, NH
Larry Gilpin	Amherst, NH	Representative Gilman Shattuck	Hillsborough, NH
Attorney Cathy J. Green	Manchester, NH	Marcia Sink	Manchester, NH
Attorney Martin L. Gross	Concord, NH	Dr. James W. Squires	Concord, NH
Vera Peaslee Haus	Dover, NH	Katrina Swett	Bow, NH
Attorney Peter Heed	Westmoreland, NH	Gary Tasker	Loudon, NH
Robert L. Hemeon	Laconia, NH	Raymond W. Taylor	Kingston, NH
John W. Hennessey, Jr.	Hanover, NH	Rodney E. Tenney	Concord, NH
Eric B. Herr	Bristol, NH	Clyde Terry	Concord, NH
The Honorable Gary E. Hicks	Concord, NH	Attorney John E. Tobin, Jr.	Concord, NH
Winnie Hohlt	Plymouth, NH	Marge Webster	Wolfeboro, NH
Steve Horton	Keene, NH	Representative Michael Whalley	Alton Bay, NH
Attorney Christopher M. Johnson	Concord, NH	Richard F. Winters	Meriden, NH
Attorney Christopher Keating	Concord, NH	Attorney Peter Y. Wolfe	Newport, NH
The Honorable Edwin Kelly	Concord, NH		

\* Indicates Commissioner resigned before the decision-making meetings in March 2006.

The complete report is available at the Law Library of the Supreme Court or online at [www.nhcitcourts.org](http://www.nhcitcourts.org).

## NEW HAMPSHIRE STATE COURT SURVEY

conducted for:

New Hampshire Citizens Commission for the State Courts

Prepared by:

Andrew E. Smith, Ph.D.

The Survey Center

University of New Hampshire

November, 2005

### The University of New Hampshire Survey Center

The UNH Survey Center is an independent, non-partisan academic survey research organization and a division of the UNH Carsey Institute.

The Survey Center conducts telephone, mail, e-mail, Internet, and self-administered surveys, as well as focus groups and other qualitative research for university researchers, government agencies, public non-profit organizations, private businesses, and media clients.

Our senior staff have more than 40 years experience in designing and conducting custom research on a broad range of political, social, health care, and other public policy issues.

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### I. Introduction

The 2005 New Hampshire State Court Survey was conducted by the University of New Hampshire Survey Center in Late July and August 2005. The survey was sponsored by the New Hampshire Citizens Commission for the State Courts.

There were three main purposes for the survey:

1. to understand citizen knowledge of the New Hampshire Court system,
2. to understand general citizen attitudes about New Hampshire's courts, and
3. to understand the views of citizens who have had recent experience with the court system.

Telephone interviews with 765 randomly selected New Hampshire adults were conducted between July 28 and August 12, 2005 by the University of New Hampshire Survey Center. The margin of sampling error for a survey of this size is +/- 3.5 percent (see Chapter VIII, Technical Report, for a more detailed description of sampling methods used). Most of the questions used in the survey replicated questions used by the National Center for the State Courts (NCSC) in a national survey conducted in 2000.<sup>1</sup> The questionnaire used in the New Hampshire survey was kept as identical to the NCSC survey as possible to facilitate comparability.

Additional questions were designed in conjunction with the Commission Steering Committee. The Chairs of the New Hampshire Citizens Commission for the State Courts, Will Abbott and Kathy Eneguess, and the Commission Steering Committee guided the design of the questionnaire with the active participation of other Commission members. Their help in this effort has been invaluable. The questionnaire used in the survey can be found in Appendix B of the complete report which is available at the Law Library of the Supreme Court or online at [www.nhcitcourts.org](http://www.nhcitcourts.org).

The following report presents the major findings of the survey. Significant demographic differences are noted in the text. For more detailed information about how members of specific geographic or demographic groups

<sup>1</sup> Special thanks go to Kathy Mays, Peggy Rogers, David Rottman, and David Steelman of the National Center for the State Courts for their permission to use this survey and their assistance in this project.

responded, please refer to Appendix A of the complete report which is available at the Law Library of the Supreme Court or online at [www.nhscitcourts.org](http://www.nhscitcourts.org).

## II. Knowledge of New Hampshire Courts

Overall, New Hampshire citizens have little knowledge of the way courts in their community handle various legal cases. Respondents were asked to rate how well their local courts handle several types of cases on a five-point scale where “1” was the lowest point and “5” was the highest point.

When asked about how well courts in their community handle criminal cases, civil cases, and family relations matters, at least one-third said they did not know (Chart 2.1).

Citizens are least aware of how well civil cases are handled (49% don’t know), child support cases (47% don’t know), juvenile delinquency cases (44% don’t know) but are also quite unaware of how well family relations cases are handles (42% don’t know), violent criminal cases (38% don’t know), and non-violent criminal cases (33% don’t know).

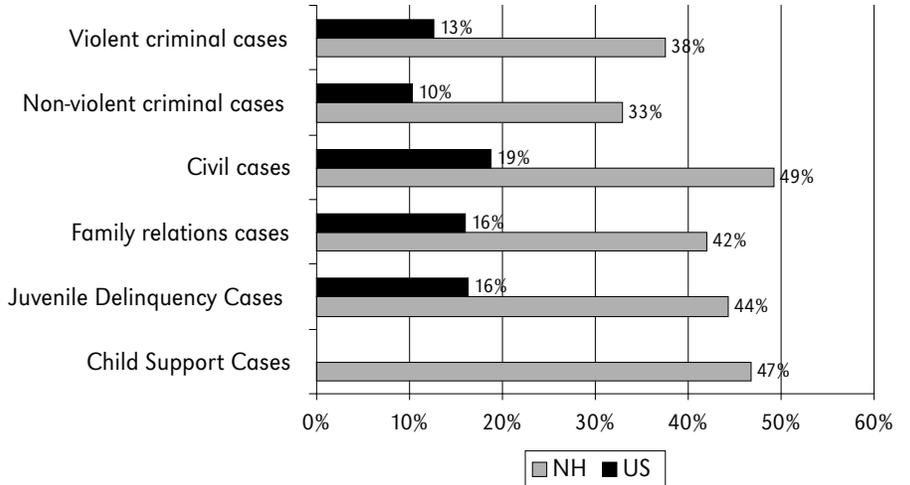
New Hampshire citizens are significantly more likely than residents of the U.S. overall to say they don’t know how these cases are handled.

For most specific measures, younger adults, women, people who have moved to New Hampshire in the past five years, residents of Hillsborough County and the Seacoast and those who have never been to court are least knowledgeable about how the community courts handle cases.

People with lower levels of education are MORE knowledgeable about how local courts handle non-violent crimes (such as drunk driving and drug cases) and civil cases.

Minorities are more likely to know about how courts handle juvenile delinquency cases and to rate them lower than are whites.

**Chart 2.1**



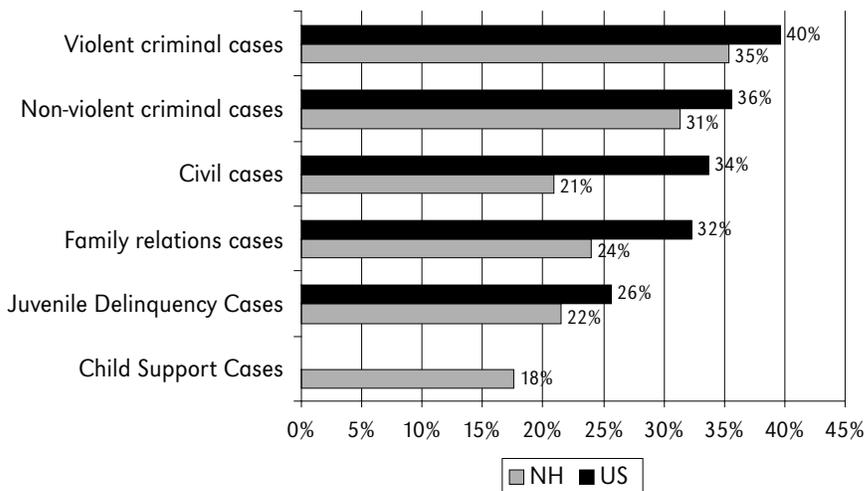
**Chart 2.1 (right)**

How Well do Community Courts Handle Cases—NH vs. US  
(Percent responding “Don’t Know” or “Not Familiar”)

Ratings for how well the courts handle cases are relatively high when compared to national figures after those with a lack of knowledge are factored in (Chart 2.2). Chart 2.3 (pg 28) shows full responses for NH residents.

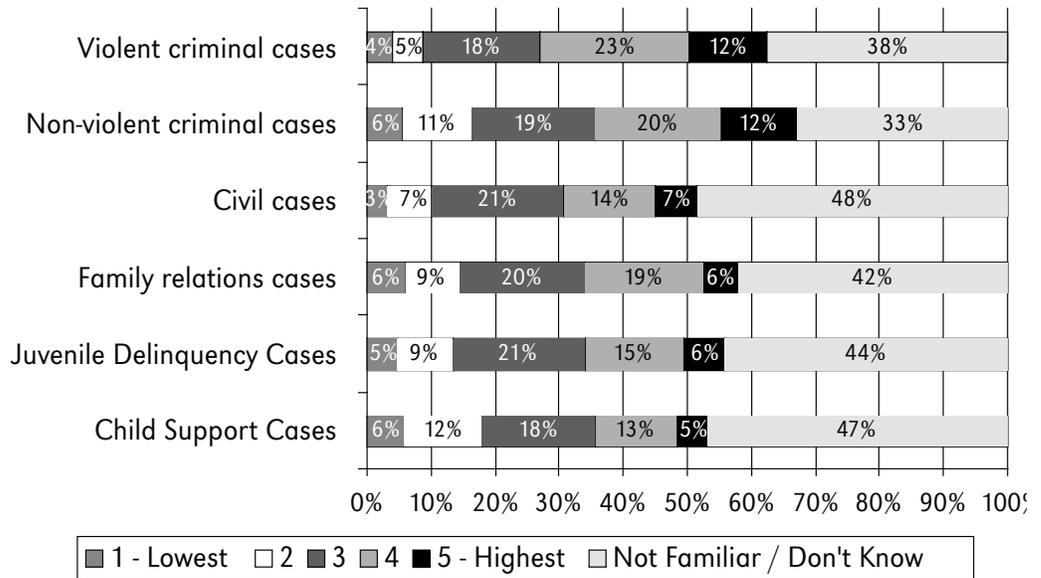
**Chart 2.2 (below)**

How Well do Community Courts Handle Cases—NH vs. US  
(Percent responding 4 or 5 on 5 point scale)



**Chart 2.3**

How Well do Community Courts Handle Cases (NH Only)



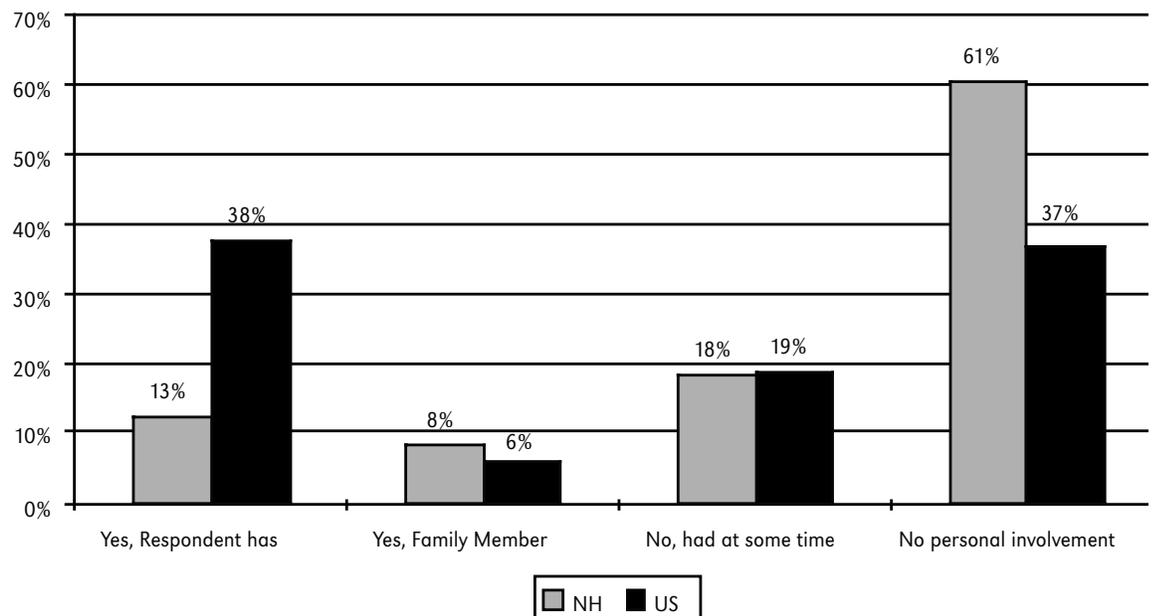
**Personal Familiarity with State Courts**

A major reason New Hampshire residents are unable to rate the performance of their local courts, compared to national figures, is that few New Hampshire residents have any direct experience with the courts. Only 13 percent of NH residents said they had personal experience in a court in the past year, either as a defendant, a plaintiff, witness, or as a juror. By comparison, 38 percent of US residents had been in court in the prior year of the NCSC survey (Chart 2.4).

- Fully 61 percent of New Hampshire residents indicated that they had never had any personal involvement with the courts compared to only 37 percent of the national sample.
- As mentioned above, New Hampshire residents who had been to court in the prior year are significantly more likely to be aware of their community courts than those who have not (Chart 2.5). However, there are no significant differences between those who have been to court in the past year and those who have not in how they rate the performance of their community courts.

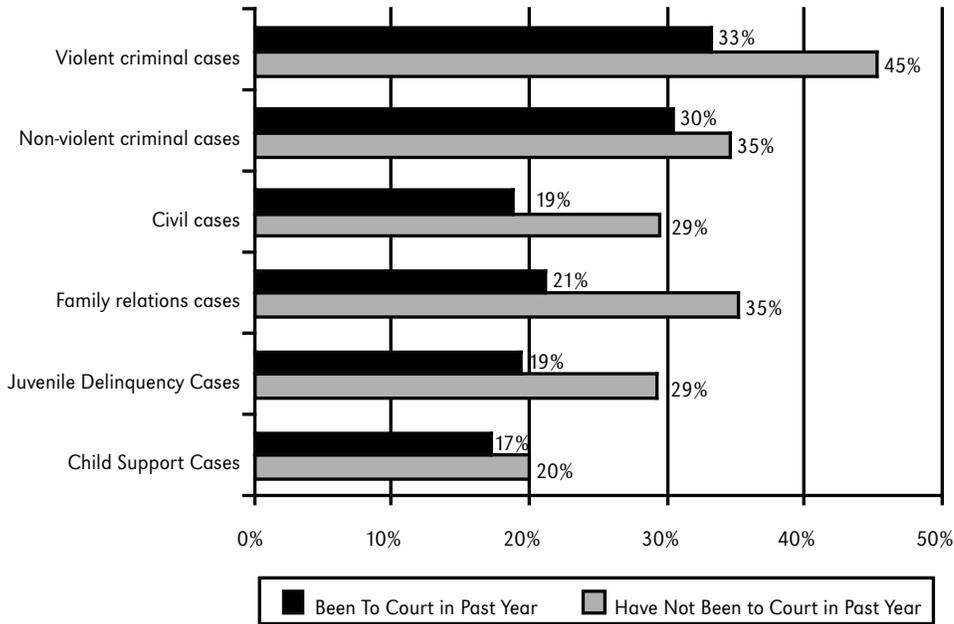
**Chart 2.4**

Anyone in HH had personal involvement in courts in last 12 months? NH vs. US



**Chart 2.5**

How Well do Community Courts Handle Cases by Recent Court Experience  
(Percent responding 4 or 5 on 5 point scale)



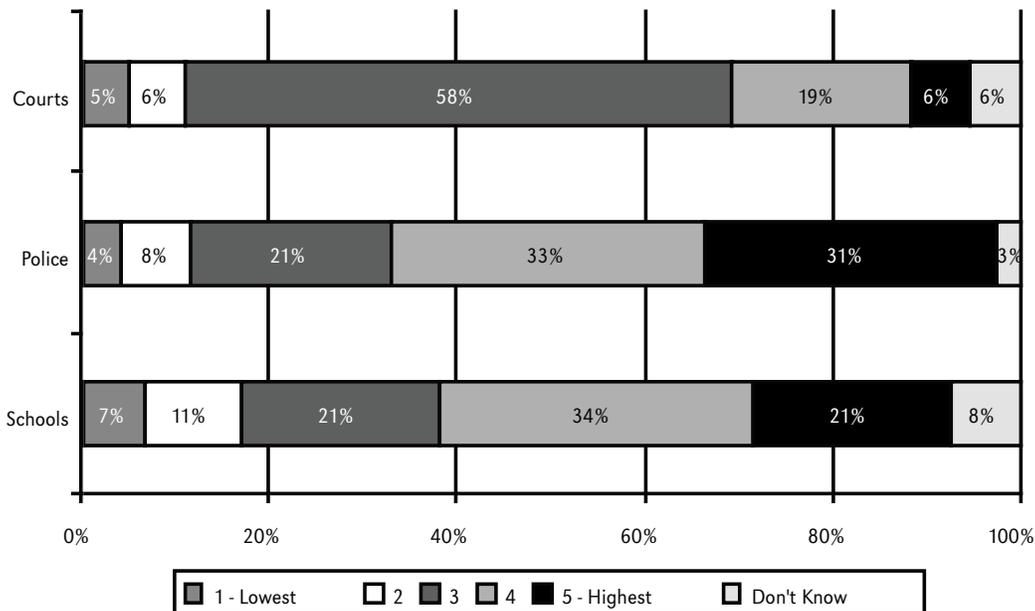
**Comparison of Courts and Other Local Government Organizations**

In order to better understand how citizens view their state courts, respondents were asked to rate their overall level of favorability toward their local courts, their local schools and their local police. Not surprisingly, courts received the highest percentage of “3” responses as people are more likely to give moderate ratings when they are not familiar with an institution (Chart 2.6).

- There are no significant differences in how different demographic groups rate their community courts

**Chart 2.6**

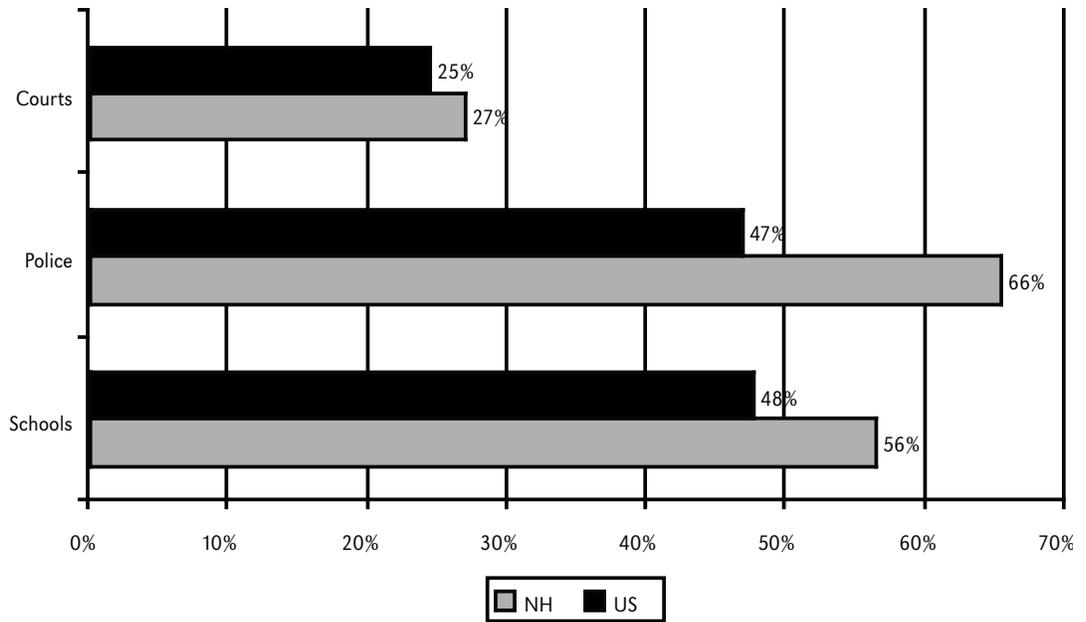
Ratings of Community Institutions (NH Only)



When compared with the United States, all three of the institutions rated received a higher percentage of favorable scores from New Hampshire residents than they did nationwide (Chart 2.7, pg 30).

**Chart 2.7**

Ratings of Community Institutions—NH vs. US (Percent responding 4 or 5 on 5 point scale)



**III. PERCEIVED FAIRNESS OF NEW HAMPSHIRE COURTS**

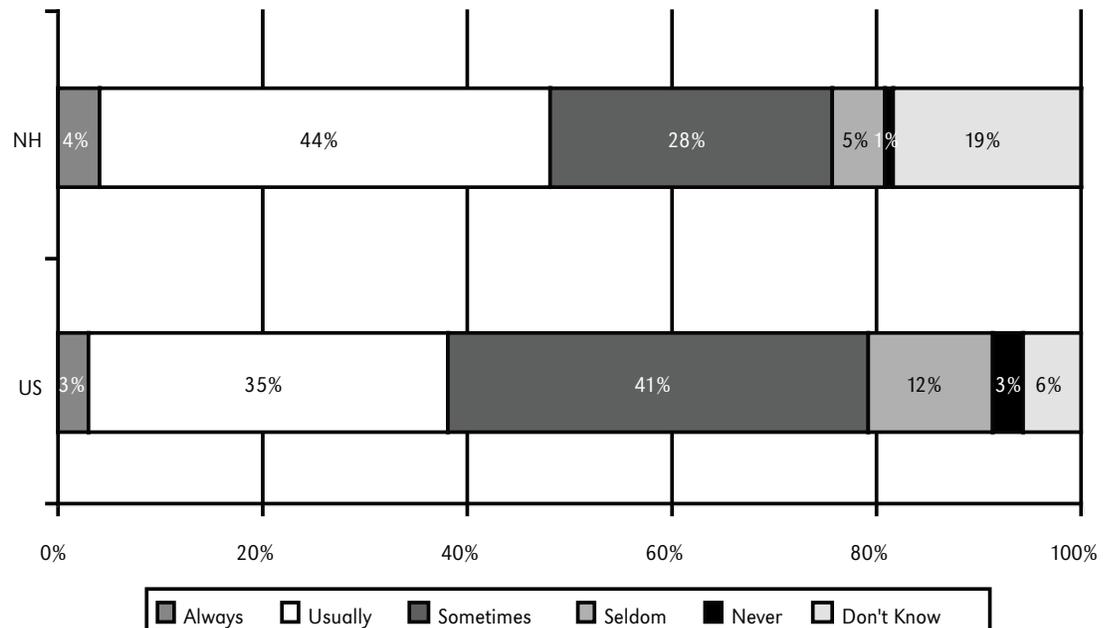
It is of the highest importance that courts are, and are perceived to be, places where all receive fair treatment and fair outcomes. New Hampshire residents were asked their perceptions of these factors directly and give positive ratings to state courts compared to national ratings.

Respondents were first asked how often they thought people received fair outcomes when they deal with the courts. Almost half (48%) of New Hampshire residents said that people always or usually receive fair outcomes when they deal with the courts, one quarter (28%) said they sometimes receive fair outcomes, 6 percent said they seldom or never receive fair outcomes and 19 percent don't know (Chart 3.1).

- New Hampshire residents assess the likelihood of receiving fair outcomes significantly higher than do respondents to the national NCSC survey.
- There are no significant differences in how various demographic groups rate their perceptions of fair outcomes.

**Chart 3.1**

How often do people receive fair outcomes when they deal with the courts?

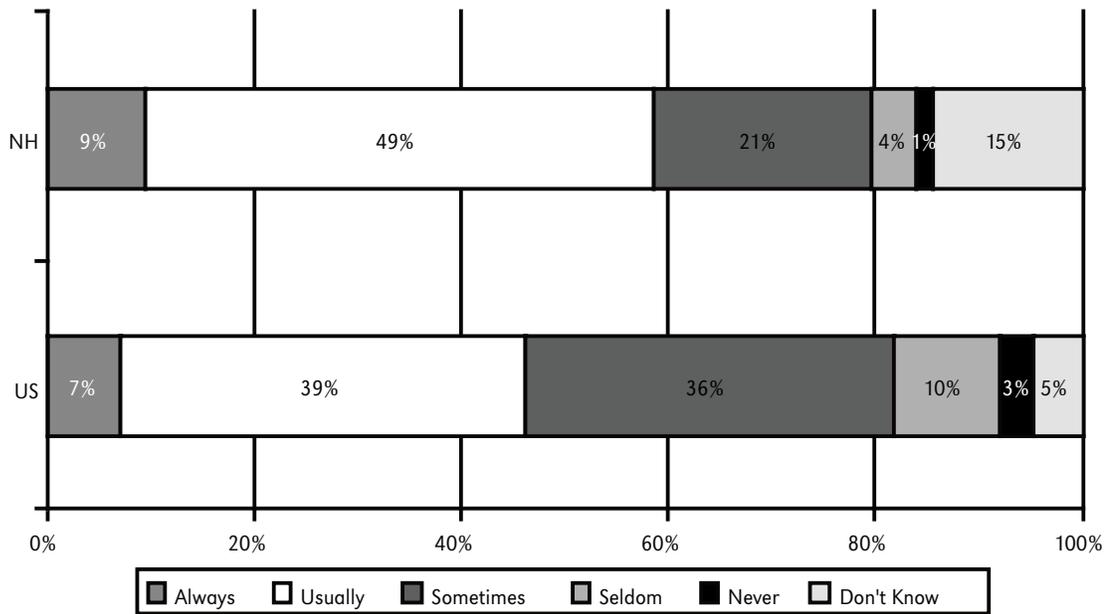


When asked about the fairness of procedures used, 58 percent of New Hampshire residents think local courts always or usually use fair procedures, 21 percent think they sometimes do, 5 percent think they seldom or never do, and 15 percent said they don't know (Chart 3.2).

- New Hampshire residents rate the fairness of procedures used significantly higher than did respondents to the national NCSC survey.
- Again, there are no significant differences in how different people assessed the fairness of procedures used in courts.

**Chart 3.2**

How often do you think the courts use fair procedures in handling cases? NH vs. US



**Perceived Treatment in Court**

Respondents were next asked whether they agreed or disagreed with a series of statements about New Hampshire courts. On issues of treatment of people in courts, New Hampshire residents rate the performance of their state courts the same as, or better than, people on the national NCSC survey (Charts 3.3 & 3.4, p 32).

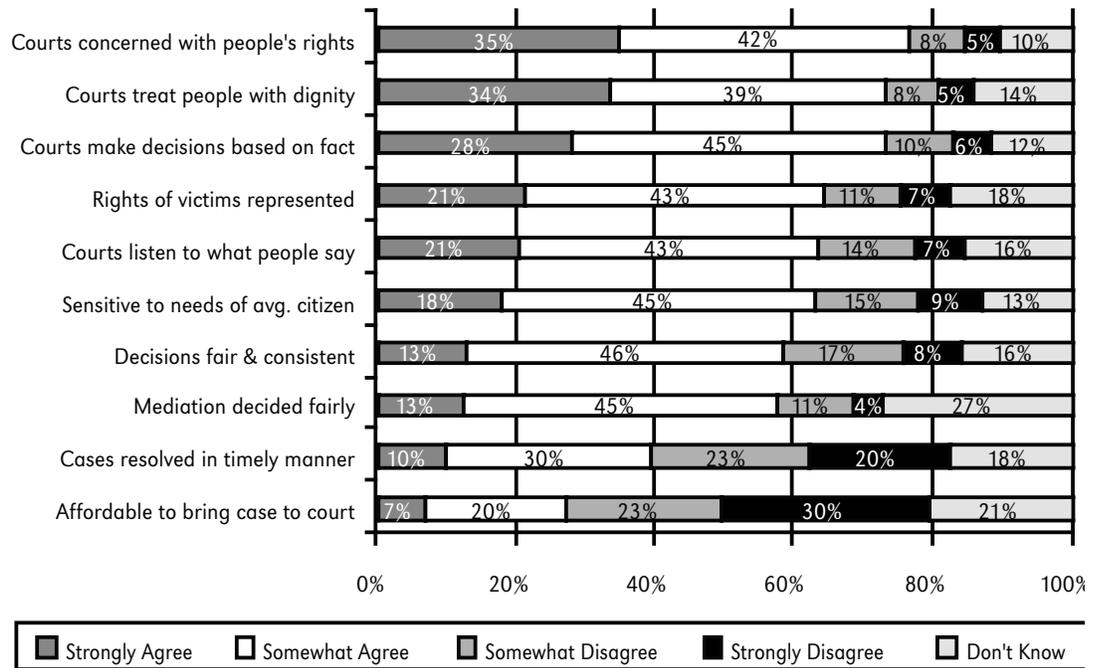
The one significant exception is that New Hampshire residents were less likely to agree that it is affordable to bring a case to court. More than half of all New Hampshire respondents (53%) disagreed with this statement.

New Hampshire residents also rate the timeliness of courts poorly with only 39 percent agreeing that cases are resolved in a timely manner—43 percent disagreed with this statement.

It is important to note that fairly large percentages were unable to rate these items—a low of 10 percent said they did not know if courts were concerned with people’s rights and a high of 27 percent said they did not know if mediation of disputes were decided fairly.

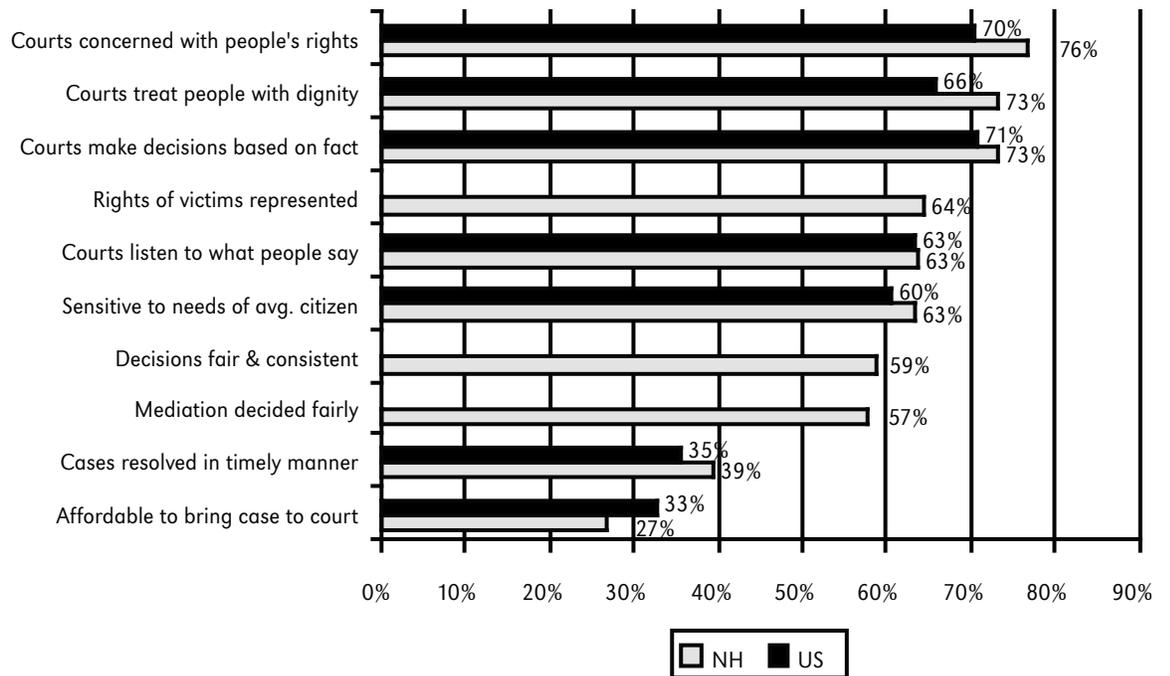
**Chart 3.3**

Percent Agreeing with Statements About Courts (NH Only)



**Chart 3.4**

Percent Agreeing with Statements About Courts—NH vs. US (Percent “Strongly Agree” or “Somewhat Agree”)



**Treatment of Minorities and Other Individuals**

It is also crucial to courts that people believe that all types of people are treated equally when they deal with courts. In order to examine this issue, respondents were asked a series of questions about how often certain types of people were treated worse than others.

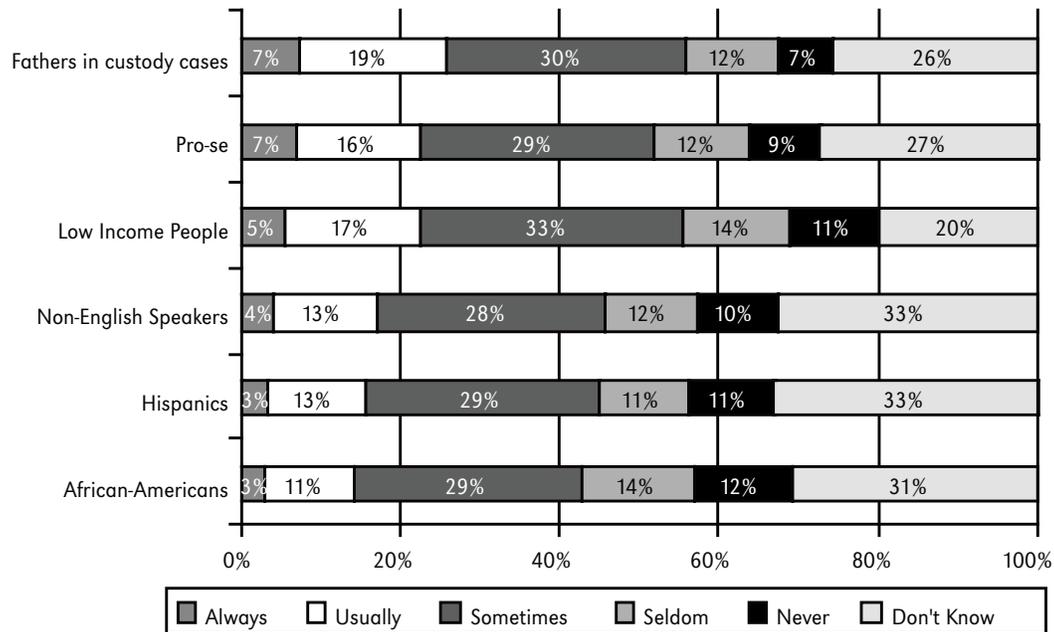
Overall, there is a lack of knowledge of how people are treated with between 20 percent and 33 percent of respondents indicating they did not know if certain people were treated worse than others (Chart 3.5, next page).

Among those who were able to make a judgment, the plurality said that these people were sometimes treated worse than others. Only between 19 percent (father in custody cases) and 26 percent (African-Americans) said that these groups were seldom or never treated worse than others.

Almost one-quarter of state residents said that fathers in custody cases, pro-se litigants, and low income people were always or usually treated worse than others.

**Chart 3.5**

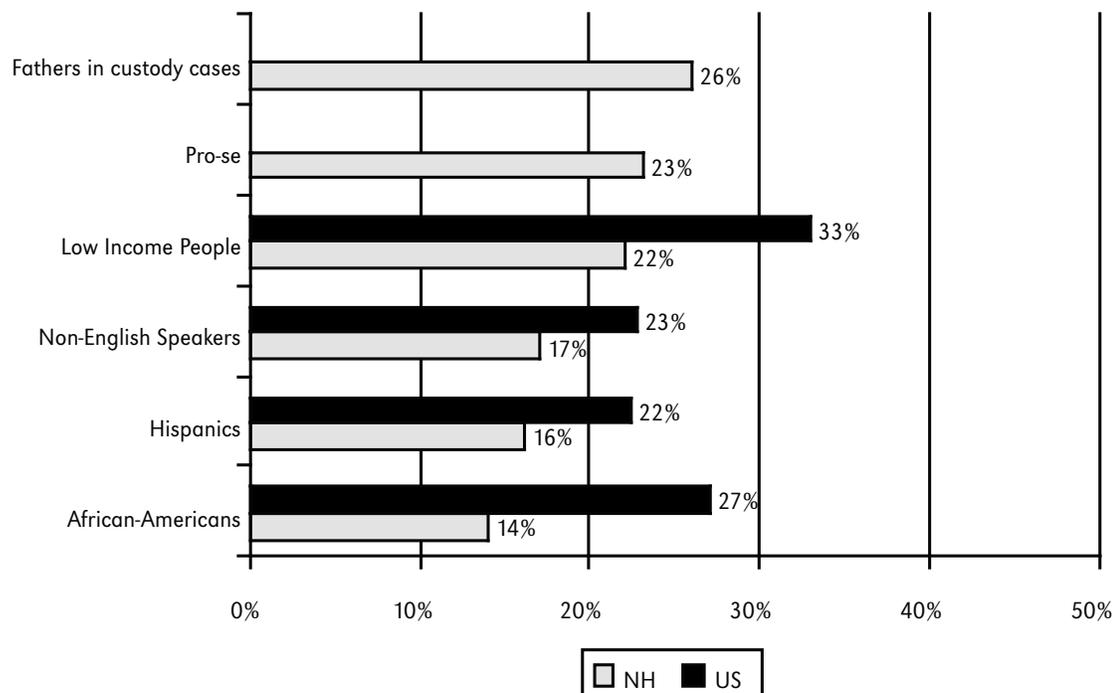
Are people treated worse than others? (NH only)



Compared to national results from the NCSC survey, New Hampshire residents are less likely to think that members of these groups are treated worse than others (Chart 3.6).

**Chart 3.6**

Are people treated worse than others?—NH vs. US (Percent “Always” or “Usually”)



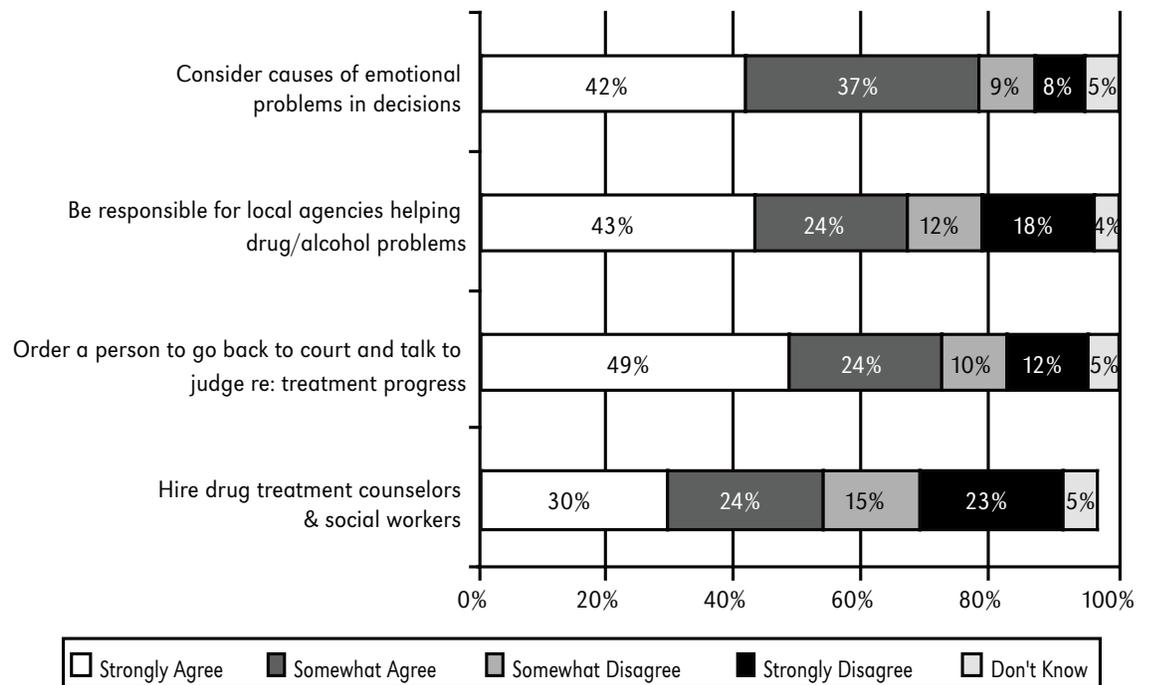
#### IV. NON-TRADITIONAL ROLES FOR THE COURTS

Courts across the United States have taken on additional roles in dealing with societal problems, particularly in dealing with family issues and substance abuse issues. Respondents were asked if they agreed or disagreed that New Hampshire courts should take on several functions that some courts across the country have assumed. New Hampshire residents are generally supportive of these additional responsibilities, but not to the level of respondents from the nation at large (Charts 4.1& 4.2).

- A large majority of New Hampshire adults (78%) agree that courts should consider what psychologists and medical doctors know about the causes of emotional problems when making decisions about people in court cases. Only 17 percent disagree that courts should do this.
- Almost three-quarters (73%) agree that courts should order a person to go back to court and talk to the judge about their progress in a treatment program.
- Two-thirds agree that courts should take responsibility for making sure local agencies provide help to people with drug abuse and/or alcohol problems.
- However, only 54 percent agree that courts should hire drug treatment counselors and social workers as court staff members.

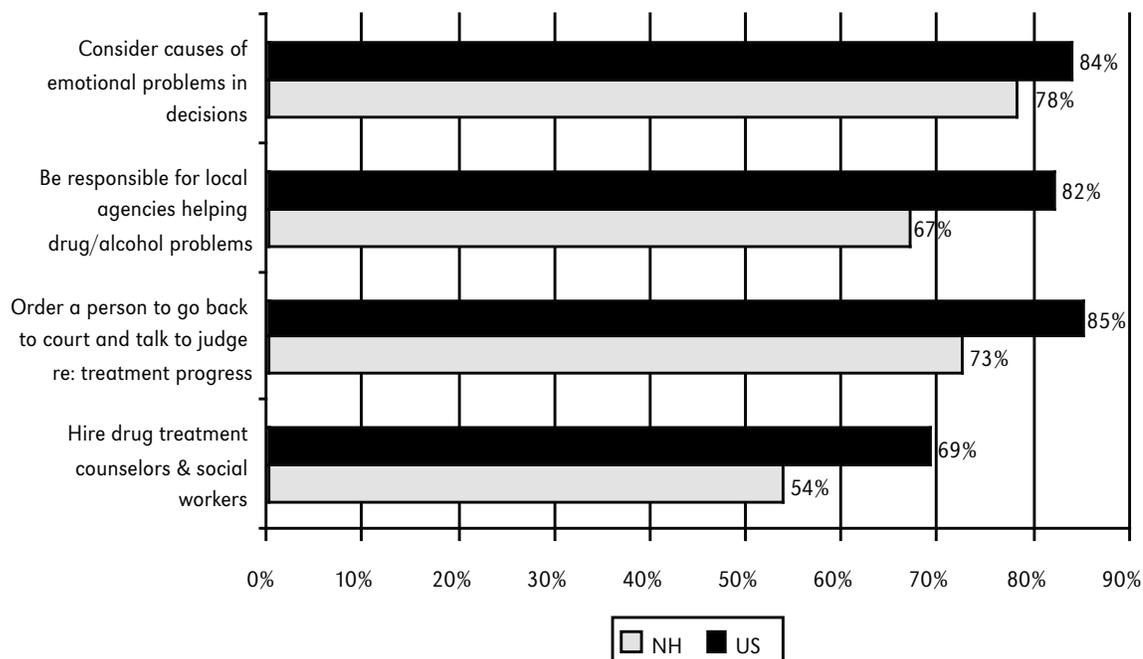
**Chart 4.1**

Non-traditional role of Courts—NH Only (Percent “Strongly Agree” or “Somewhat Agree”)



## Chart 4.2

Non-traditional Role of Courts—NH vs. US (Percent “Strongly Agree” or “Somewhat Agree”)



## V. PERSONAL EXPERIENCE IN COURT

As described above, few New Hampshire residents have been to court, especially when compared to respondents to the NCSC study (Chart 2.3). Only 12 percent of New Hampshire adults said they have been in court in the past year as a plaintiff, a defendant, a juror, a witness or for any other reason, another 8 percent said that a family member had been in court for some reason in the past year, 18 percent had been in court at some time in their lives, but not in the past year, and 61 percent said they had never been to court.

- Minorities, people aged 50 to 59 years old, and people with only a high school education or less are most likely to have had experience with the courts.
- One quarter of those who had been to court in the past year said they had been a defendant in a criminal case, 18 percent were plaintiffs in a lawsuit, 15 percent said they had been a witness, 13 percent had been a juror, 10 percent were involved in a child custody case, 8 percent were defendants in a civil case, 3 percent had been involved in a traffic case, 3% were court employees or attorneys, and 5 percent had some other experience in court.
- The most common types of cases people were involved in were criminal matters (35%), family matters (28%), lawsuits seeking money (21%), traffic court (8%), some other matter (3%), and 5 percent were not sure.
- Most of those respondents who had been to court in the past year (76%) said that the case they were involved in had reached a conclusion.
  - Respondents involved in criminal cases were more likely to say that their case had reached a conclusion than were those involved in civil cases.

### Representation

- Slightly more than half (54%) of those who had been either a plaintiff or defendant in a court case in the past year said they had a lawyer in their case.
- The major reasons for why they did not have a lawyer were that did not want to spend the money and could handle the issue on their own, that they could not afford a lawyer, and that they wanted to be their own advocate. (Care should be taken with these results as only a small number of respondents, 32, were asked this question.)

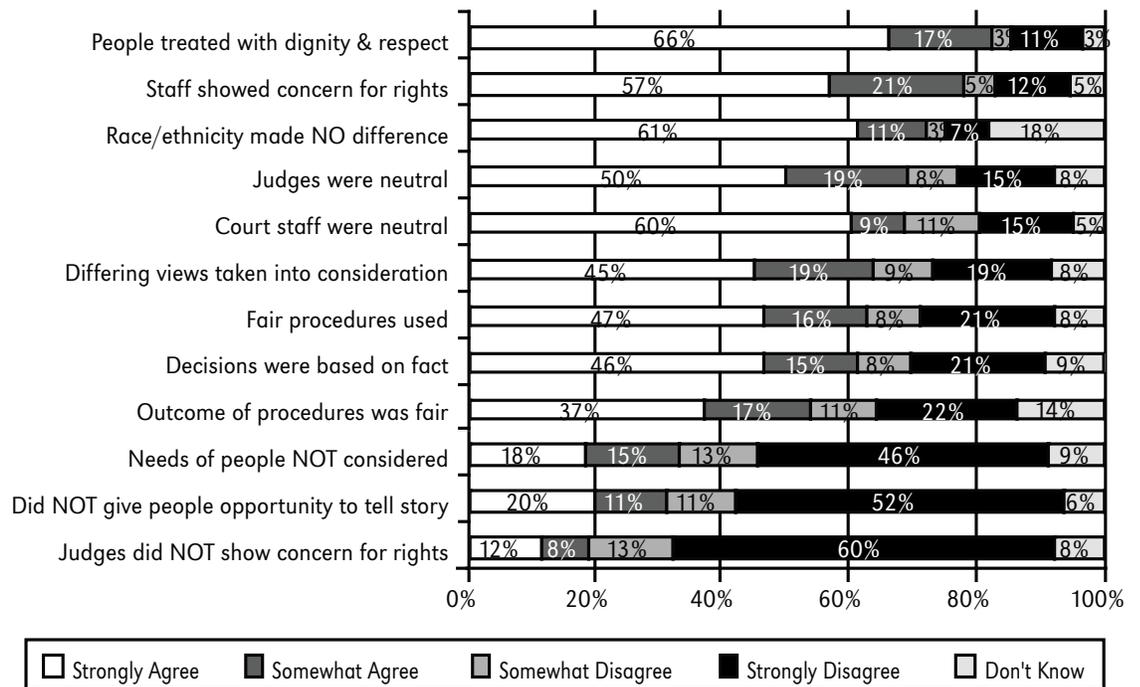
### Observing What Happened in Court

Those respondents who had been in court in the past year were asked whether they agreed or disagreed with a series of statements about what they saw happen during their time in court. Overall, New Hampshire respondents who had been to court responded more positively about their experience than did respondents to the nationwide NCSC survey (Charts 5.1 & 5.2).

- More than three-quarters of New Hampshire respondents who had been to court in the past year agreed that people were treated with dignity and respect, and that the court staff showed concern for people's rights.
- More than two-thirds agreed that a person's race or ethnicity made no difference in how the court treated them and that judges were neutral in the way people were treated, that court staff were neutral.
- More than three in five agreed that differing views of people were taken into consideration, and that fair procedures were used to make decisions, and that decisions were based on fact.
- Similarly, only 19 percent agreed that judges did NOT show concern for peoples rights, 31% said that judges did NOT give people an opportunity to tell their side of the story, and 33 percent said that the needs of people were NOT taken into account.
- On a less positive note, only 54 percent said that the outcome of the procedures used was fair.
- While New Hampshire rated better than the US on most of these indicators, it did score lower on perceptions of the fairness of procedures used, on perceptions that decisions were based on fact, and perceptions that the outcomes of procedures were fair.

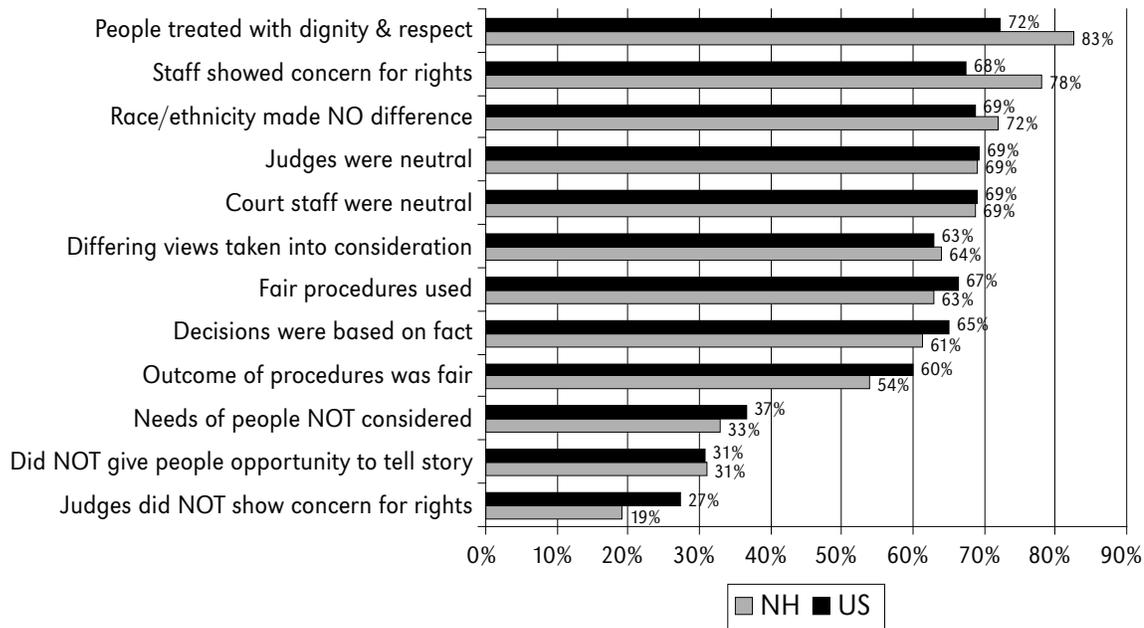
**Chart 5.1**

Perceptions of NH Courts—Respondent's who had been to Court in past year NH Only



**Chart 5.2**

Perceptions of NH Courts— Respondent’s who had been to Court in past year NH vs. US  
(Percent “Strongly Agree” or “Somewhat Agree”)



**Personal Experience in Court**

Respondents who had been to court in the past year were also asked whether they agreed or disagreed with a series of statements about how they were personally treated in court (Charts 5.3 & 5.4).

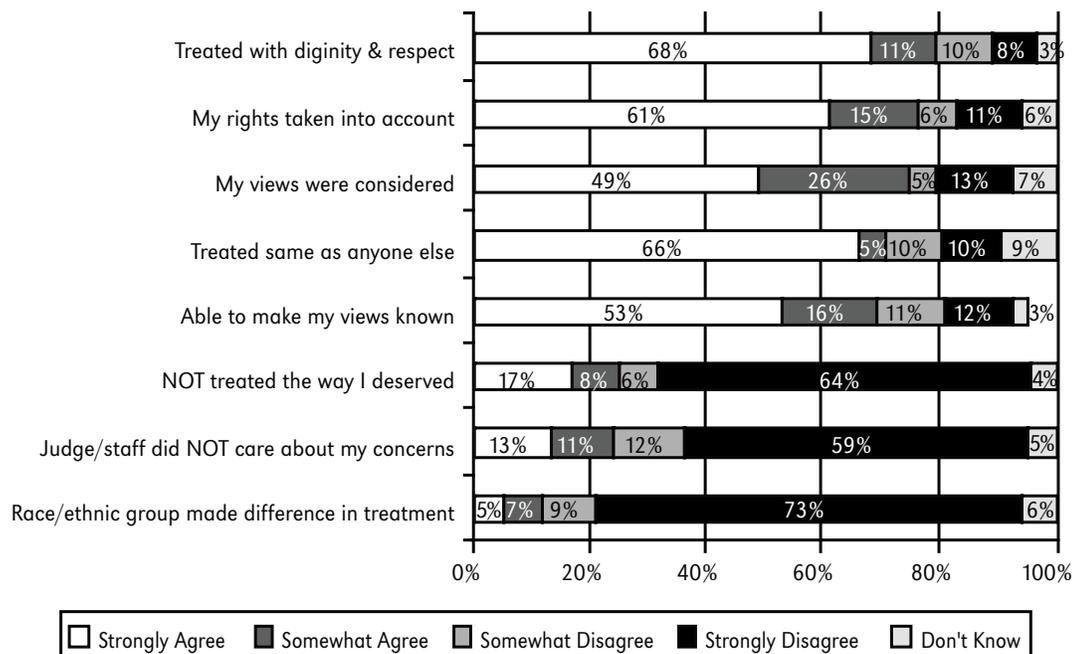
More than three-quarters of New Hampshire residents who had been to court in the past year agreed they were personally treated with dignity and respect, that their rights were taken into account, and that their views were considered.

More than two-thirds agreed that they were treated the same as everyone else and that they were able to make their views known.

Only one-quarter or less agreed that they were NOT treated the way they deserved, that judges did NOT care about their concerns, or that their race or ethnic group made a difference in how they were treated.

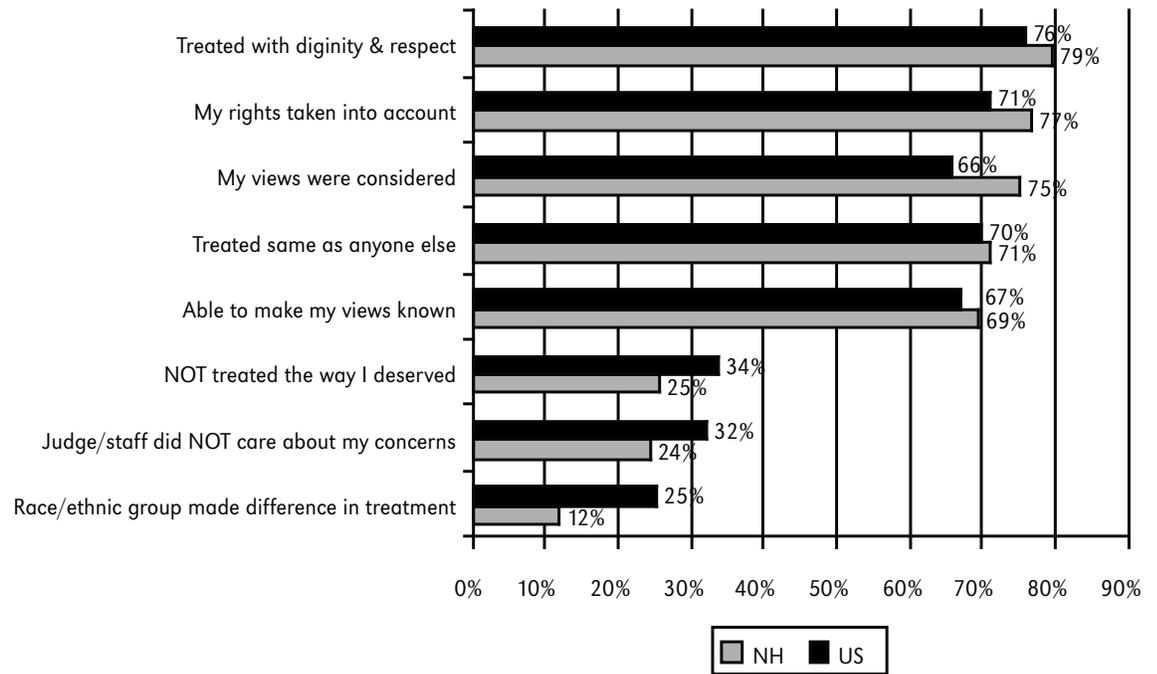
**Chart 5.3**

Respondent’s Personal Treatment in Court NH Only (Percent “Strongly Agree” or “Somewhat Agree”)



**Chart 5.4**

Respondent's Personal Treatment in Court—NH vs. US (Percent "Strongly Agree" or "Somewhat Agree")



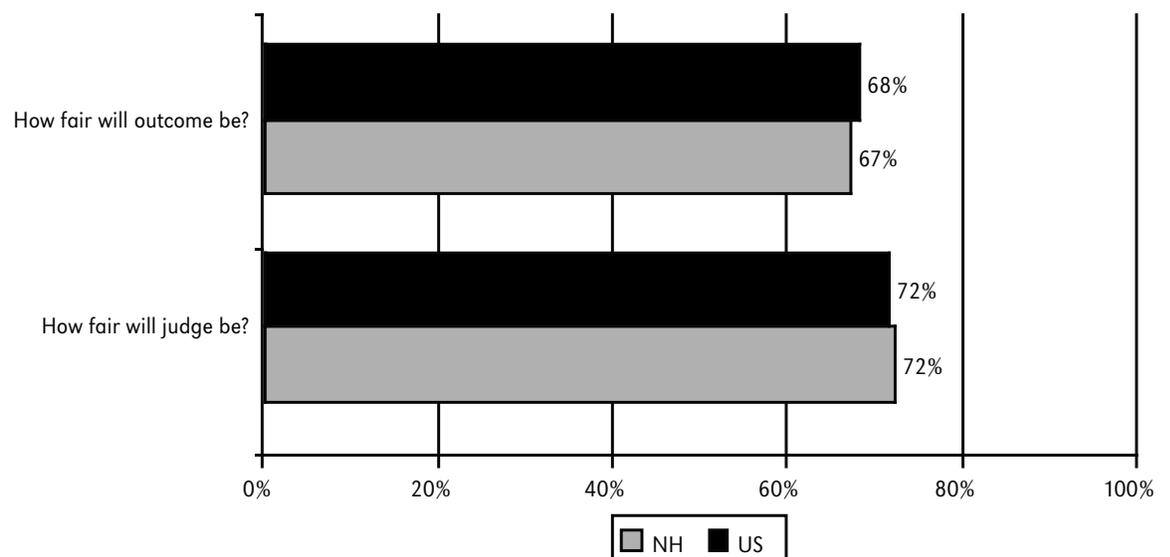
Expectations of Future Court Appearance

Those respondents who had been to court in the past year were asked how fair the outcome they would likely receive would be, and how fair they think the judge would be, if they were to appear in court again in the future as a party in the same kind of case. While most think that judges and the outcome will be fair, one-quarter think that judges and the outcome will be somewhat or very unfair (Chart 5.5).

- Two-thirds said they expected the outcome of a future case would be very fair (47%) or somewhat fair (20%) while 13 percent think the outcome would be somewhat unfair and 10 percent think the outcome would be very unfair.
- Similarly, almost three-quarters think the judge in a future case will be very fair (51%) or somewhat fair (21%) while 14 percent think the judge will be somewhat unfair and 6 percent think the judge will be very unfair.
- Both of these measures are the same as national numbers as measured in the NCSC survey.

Chart 5.5

If you had to go to court again in the future...—NH vs. US (Percent "Very Fair" or "Somewhat Fair")

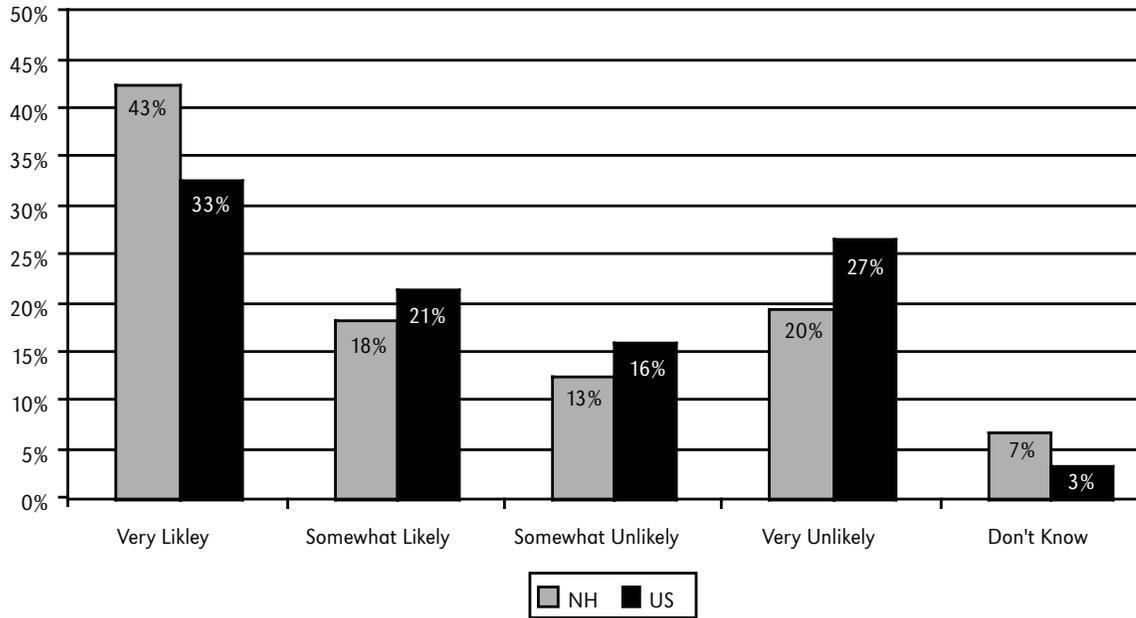


Most respondents who had been to court in the past year (61%) said they likely would go to the courts if they became involved in a similar dispute at some time in the future. However, almost one-quarter said they would be somewhat or very unlikely to return (Chart 5.6).

People who had been to court in New Hampshire are significantly more likely to return to court to resolve a future dispute than similar people nationwide.

**Chart 5.6**

How likely would you be to go to the courts to resolve a similar dispute? –NH vs. US



**Improvements to the Court**

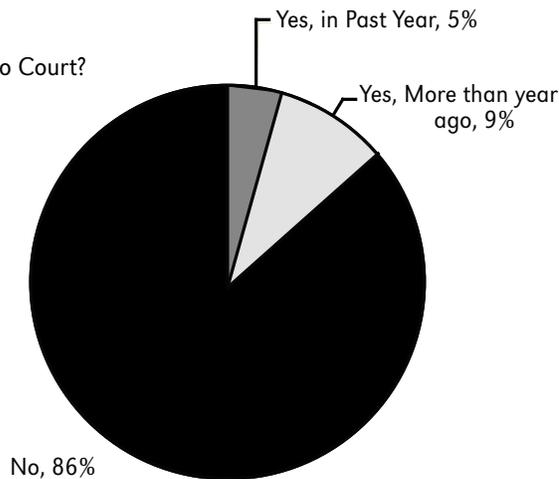
Respondents who had been to court in the past year were asked an open-end question about what one change or improvement they would recommend to improve New Hampshire’s courts. The most frequent responses were to improve the timeliness of cases (20%), to treat people equally (9%), to hire more judges (6%), to have more severe sentencing (5%), to simplify court procedures (4%), to stick more closely to the law (4%), to hire fairer, more honest judges (4%), to improve the communication of court schedules (4%), and to make it easier for people to speak in court (3%).

**VI. DECIDING NOT TO GO TO COURT**

All respondents were asked if there had ever been an instance when they were discouraged from going to court in New Hampshire. Most respondents (86%) said they had never been discouraged from going to court, 5 percent said they had been discouraged from going to court in the past year, and 9 percent said they had been discouraged from going to court at some time before the past year.

**Chart 6.1**

Ever been discouraged from going to Court?  
(All respondents, NH Only)



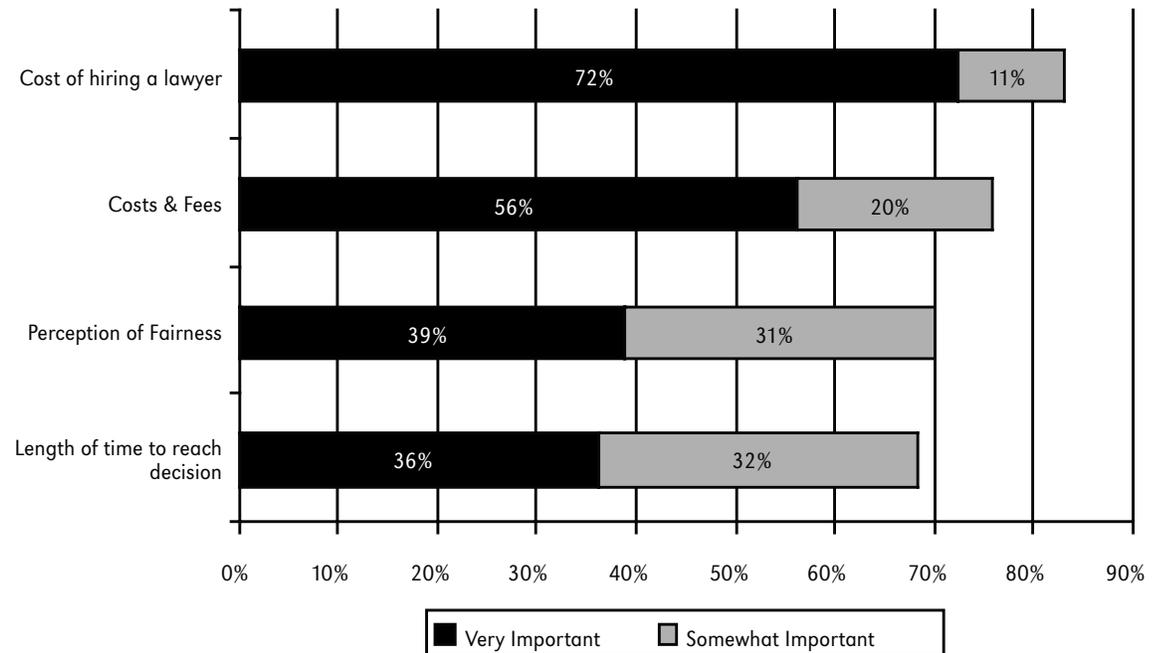
## Why Not Go To Court

Those who said they had been discouraged were asked how important several factors were to their decision not to go to court.

- Nearly three-quarters of those who were discouraged from going to court said that the cost of hiring a lawyer was very important in their decision not to go to court (Chart 6.2).
- More than half said that court costs and court fees were very important in their decision not to go to court.
- Almost 40 percent said that their perception of the fairness of the courts was very important in their decision not to go to court.
- More than one-third said that the length of time it takes to reach a decision was very important in their decision not to go to court.

Chart 6.2

Reasons for NOT Going to Court NH Only (Percent “Very Important” or “Somewhat Important”)



## VII. RECENT COURT ISSUES

Two issues involving New Hampshire received great publicity and public comment in recent years – the Claremont decisions that said the State of New Hampshire is responsible for funding an adequate primary and secondary education and the impeachment of former Supreme Court Chief Justice David Brock. Respondents were asked how familiar they were with each of these issues and whether they had increased or decreased their respect for the New Hampshire Supreme Court. Despite the publicity each of these issues received, they are not too familiar among New Hampshire adults (Chart 7.1).

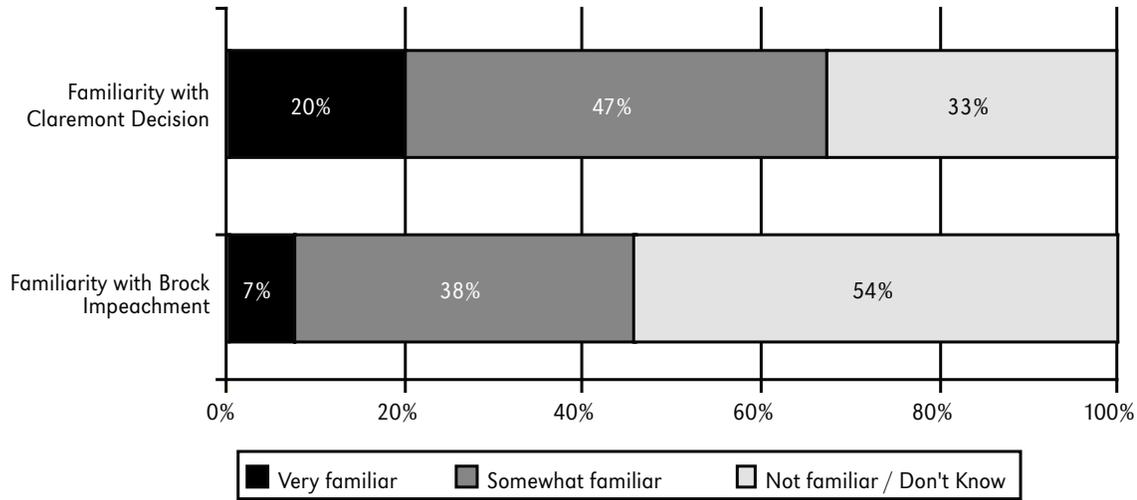
Appendix C  
40

### Claremont

- Only 20 percent of New Hampshire adults said they are very familiar with the Claremont decisions that said the State of New Hampshire is responsible for funding an adequate education to New Hampshire children, 47 percent are somewhat familiar, and 33 percent are not familiar or don't know.
  - Younger adults (under 40), people who have never been married, and newcomers to New Hampshire are least likely to be familiar with the Claremont Decisions
- And while the Claremont Decision has caused a serious financial problem for the state and for many towns, this has not had a serious impact on people's respect of the Supreme Court. Among those who said they were familiar with the Claremont decisions, the majority (53%) said these decisions have had no impact on their respect for the New Hampshire Supreme Court, 26 percent said it has decreased their respect for the Supreme Court, 19 percent said it has increased their respect for the court and 2 percent are not sure (Chart 7.2).
  - Adults 50 or older are most likely to say that the Claremont Decisions have decreased their respect for the Supreme Court.

**Chart 7.1**

Familiarity with Recent Court Issues (NH Only)

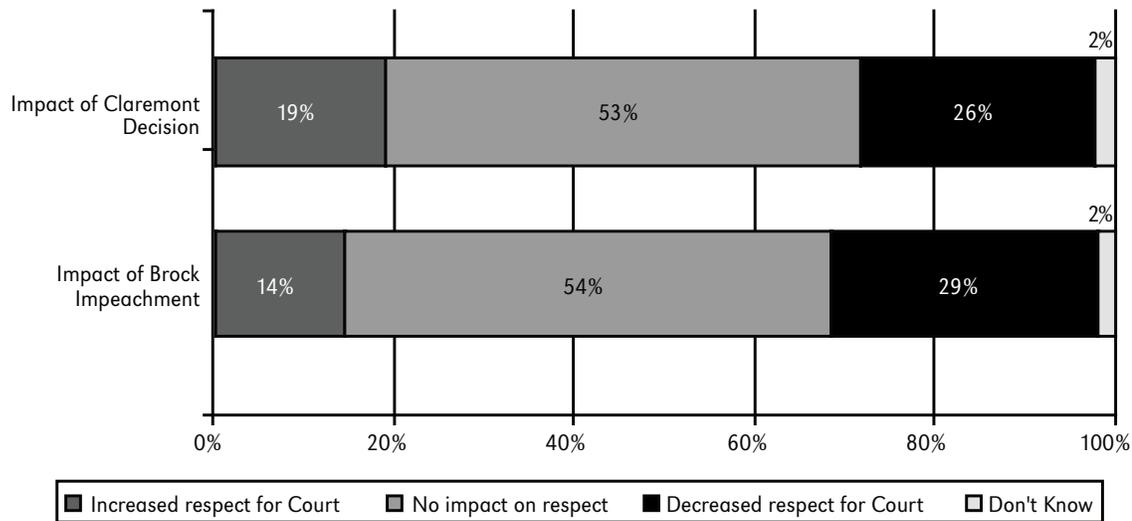


**Brock Impeachment**

- New Hampshire residents are even less familiar with the impeachment and acquittal of former Chief Justice David Brock in 2000. Only 7 percent said they were very familiar with the Brock impeachment, 38 percent said they were somewhat familiar, 53 percent said they were not familiar and 1 percent said they were not sure (Chart 7.1).
  - People with higher levels of income and education are most familiar with the Brock impeachment.
  - Young adults (under 40), people with lower levels of income, and recent arrivals to New Hampshire are least familiar with the Brock impeachment.
- Among those familiar with the Brock impeachment, most (54%) said it had no impact on their respect for the New Hampshire Supreme Court, 29 percent said it had decreased their respect for the Court, 14 percent said it had increased their respect for the Court and 2 percent were not sure.
  - People aged 50 to 59 were most likely to say that the Brock impeachment had decreased their respect for the Court.

**Chart 7.2**

Impact of Recent Court Issues (People familiar with issues, NH Only)



## VIII. TECHNICAL REPORT

The University of New Hampshire Survey Center conducted a survey of New Hampshire adults for the New Hampshire Citizens Commission for the State Courts in August, 2005.

### How the Sample Was Selected

A sample of households in New Hampshire was selected by a procedure known as random digit dialing. The way this works is as follows. First, with the aid of the computer, one of the three-digit telephone exchanges that are currently used in the state (e.g., 868) is randomly selected. The computer then randomly selects one of the “working blocks” –the first two of the last four numbers in a telephone number (e.g., 64)–and attaches it to the randomly selected exchange. Finally, the computer program then generates a two-digit random number between 00 and 99 (e.g., 12) which is attached to the previously selected prefix (868), and the previously selected working block (34) resulting in a complete telephone number—i.e., 868-1234. This procedure is then repeated numerous times by the computer to generate more random numbers, so that we have a sufficient quantity to conduct the survey. The end result is that each household in New Hampshire in which there is a telephone has an equally likely chance of being selected into the sample.

The random sample used in the 2005 New Hampshire State Court Survey was purchased from Marketing Systems Group, Fort Washington, Pennsylvania. MSG screens each selected telephone number to eliminate non-working numbers, disconnected numbers, and business numbers to improve the efficiency of the sample, reducing the amount of time interviewers spend calling non-usable numbers.

Each of these randomly generated telephone numbers is called by one of our interviewers from a centrally supervised facility at the UNH Survey Center. If the number called is found not to be a residential one, it is discarded and another random number is called. (Approximately fifty percent of the numbers are discarded because they are found to be businesses, institutions, or not assigned.) If it is a residential number, the interviewer then randomly selects a member of the household by asking to speak with the adult currently living in the household who has had the most recent birthday. This selection process ensures that every adult (18 years of age or older) in the household has an equally likely chance of being included in the survey. No substitutions are allowed. If, for example, the randomly selected adult is not at home when the household is first contacted, the interviewer cannot substitute by selecting someone else who just happens to be there at the time. Instead, he or she must make an appointment to call back when the randomly selected adult is at home. In this way, respondent selection bias is minimized.

### When the Interviewing Was Done

Respondents were interviewed between July 28 and August 12, 2005. Each selected household was called by a professional UNH Survey Center interviewer from a centrally supervised facility at the UNH Survey Center. Telephone calls during the field period were made between 10:00 AM and 9:00 PM.

### Response Rates

Interviews were completed with 765 randomly selected adults in New Hampshire from a sample of 9,120 randomly selected telephone numbers. Using American Association for Public Opinion (AAPOR) Response Rate 3, the response rate for the 2005 New Hampshire State Court Survey was 23.7%. The refusal rate for the survey was quite low, 8.3%

The formula to calculate standard AAPOR response rate is:

$$\frac{I}{((I+P) + (R+NC+O) + e(UH+UO))}$$

I=Complete Interviews, P=Partial Interviews, R=Refusal and break off, NC=Non Contact, O=Other, e=estimated portion of cases of unknown eligibility that are eligible, UH=Unknown household, UO=Unknown other.

After the interviews were completed, the open-ended questions were coded. Following this coding, the data analysis was conducted using the Statistical Package for the Social Sciences (SPSS).

## Sampling Error

The 2005 New Hampshire State Court Survey, like all surveys, is subject to sampling error due to the fact that all residents in the area were not interviewed. For those questions asked of seven hundred fifty (750) or so respondents, the error is +/-3.6%. For those questions where fewer than 750 persons responded, the sampling error can be calculated as follows:

$$\text{Sampling error} = \pm \frac{1.96 \sqrt{P(1-P)}}{\sqrt{N}}$$

Where P is the percentage of responses in the answer category being evaluated and N is the total number of persons answering the particular question.

For example, suppose you had the following distribution of answers to the question, "Should the state spend more money on road repair even if that means higher taxes?" Assume 1,000 respondents answered the question as follows:

YES	- 47%
NO	- 48%
DON'T KNOW	- 5%

The sampling error for the "YES" percentage of 47% would be

$$\pm \frac{1.96 \sqrt{(47)(53)}}{\sqrt{1,000}} = \pm 3.1\%$$

for the "NO" percentage of 48% it would be

$$\pm \frac{1.96 \sqrt{(48)(52)}}{\sqrt{1,000}} = \pm 3.1\%$$

and for the "DON'T KNOW" percentage of 5% it would be

$$\pm \frac{1.96 \sqrt{(5)(95)}}{\sqrt{1,000}} = \pm 1.4\%$$

In this case we would expect the true population figures to be within the following ranges:

YES	43.9% - 50.1% (i.e., 47% +/-3.1%)
NO	44.9% - 51.1% (i.e., 48% +/-3.1%)
DON'T KNOW	3.6% - 6.4% (i.e., 5% +/-1.4%)

## Weighting of the Data

To avoid biasing the sample in favor of households which can be reached through more than one telephone number, each case is weighted inversely to its probability of being included in the sample. In addition, the data are weighted to correct for sampling biases due to size of household (i.e., number of persons aged 18 and over living in the household). Finally, the data have been weighted to correct for potential sampling biases on sex and county of residence, using 2000 U.S. Census data. When using the SPSS data set, CENSUSWT should be applied for all data analyses in which the individual adult is the desired unit of analysis.

# Appendix D

## Schedule and Location of Eleven Public Listening Sessions in 2005

September 12	Manchester	Aldermanic Chamber, City Hall
September 15	Nashua	City Hall Auditorium
September 19	Concord	Legislative Office Building
September 26	Portsmouth	City Hall
October 4	Lancaster	Lancaster District Court
October 14	Plymouth	Plymouth District Court
October 20	Lebanon	Lebanon District Court
October 26	Berlin	NH Community Technical College
November 7	Tamworth	Tri County Community Action Building
November 10	Keene	Keene District Court
November 14	Salem	Salem High School Media Center

The Commission received 71 members of the public at these 11 public listening sessions. In addition, the Commission received responses to 67 surveys taken by commissioners and 56 e-mail comments. Of the 194 contacts, 103 were negative. Concerns or complaints were registered with the following courts:

- 93 Family Courts
- 12 District Courts
- 10 Superior Courts
- 5 Supreme Court
- 5 Probate Courts
- 1 Part time courts

The nature of concerns raised were as follows:

- Expense of going to court: 79
- Court bias against fathers in divorce cases: 74
- Allegations of denial of rights and/or denial of due process: 36
- Court delays and scheduling problems: 23
- Claims of false reporting of domestic violence: 21
- Claims of ineffectiveness of Committee on Judicial Conduct: 21
- Filing delays and staff shortages: 7
- Legislating from the bench: 6
- Inadequate training of Guardians ad litem: 6
- Inadequate security at court buildings: 5
- Need for more assistance for pro se litigants: 4
- Court bias against women: 3
- Need for "restorative justice" programs: 2
- Need for more mediation services: 2

One comment was received for each of the following issues: more orientation for jurors, court bias favoring municipalities in cases where municipalities are litigants, lack of access/input to grand juries, availability of mental illness programs for those incarcerated in state prisons, inadequate sentencing of sex offenders, lack of alternatives for juvenile offenders, lack of training for judges, inadequate treatment programs for drug offenders, concern with lifetime tenure for judges, inadequate funding for indigent defense, need for greater application of alternative dispute resolution options, need for case managers in all courts.

The listening sessions were part of the research phase of the Commission's work. Each session was facilitated by the co-chairs and structured to gather public input, concerns, complaints, or ideas for improvement. The information received was then used by the research committees in their deliberations.

## Research Committee Charges and Membership



### 1. Alternative Dispute Resolution

Charge: What are the Alternative Dispute Resolution options, how are they made available, and do they/could they work effectively in New Hampshire?

Members: J. Baird, A. Botteri, S. Davis, M. Kenison, J. McDonough, M. Prozzo, J. Squires (Chair), G. Tasker, P. Wolfe

### 2. Communication & Customer Service

Charge: How can State courts more effectively meet the information needs and service expectations of New Hampshire citizens who engage the court system?

Members: J. Barry, M. Callahan, B. Champlin (Vice-chair) D. Cheverfils, R. Fielding, L. Gilpin (Chair), M. Krueger, M. Mackenzie, M. Morgan, L. Morrow, S. Nute, J. Osburn, T. Peterson, R. Taylor

### 3. Courts as a Business

Charge: The State Courts spend \$60 million annually; what changes should be made to assure that we are getting the best bang for the buck?

Members: J. Brady, D. Callaghan, J. Crosier, H. Eaton, B. Felmy, D. Gendron, E. Herr (Chair), G. Hicks, J. Maher, J. Reams

### 4. Family Courts

Charge: Are we on the right track?

Members: B. Allen, G. Barba, P. Clements, I. Dziura, E. Kelly, P. Lown, T. Lucas, M. Mahoney, J. Michalik, M. Ostrowski (Co-chair), P. Runyon, M. Sink (Co-chair)

### 5. Problem Solving Courts

Charge: Are there programs and/or services the state courts could offer that would result in a reduction in the demand for state court legal services?

Members: H. Cady, C. Keating, M. Francoeur, N. Gardner (Chair), V. Haus, R. Hemeon, S. Monier, G. Shattuck, R. Tenney, J. Tobin

### 6. Public Access to NH Courts

Charge: What barriers exist to the public's access to State Courts and how do we clear them?

1. Are all court buildings accessible to people with disabilities?
2. Are legal costs a barrier to public access to Courts?
3. Are legal procedures themselves a barrier to public access to courts (e.g., for pro se litigants)?
4. Is technology being used to improve public access to courts?

Members: K. Barnes, E. Berg, R. Bower, A. Cantor, J. Hennessy, W., Hohlt, S. Horton, C. Killam, A. Leahy, R. Littlefield (co-chair), R. Lospennato, V. Martin, C. Nixon (Co-chair), C. Terry

### 7. Sentencing

Charge: Is sentencing in NH courts fair, are the right people in jail and is the public being well served by current sentencing practices?

Members: L. Feldstein (Co-chair), J. Gawryl, C. Green (co-chair), C. Johnson, C. Keating, D. Kidder, W. Knowles, D. Kuehne, R. Lynn, J. Moulis, T. Nadeau, M. Putney, M. Webster

### 8. The Third Branch

Charge: How can the NH Judiciary work more effectively with the legislative and executive branches to better fulfill its constitutional obligation as the third branch of government?

Members: K. Ayotte, C. Bickford, D. Davey, R. Duhaime, F. Frasier, M. Gross, P. Heed, A. Kuster, A. Peterson (Chair), K. Swett, M. Whalley, R. Winters

# Appendix F

The Commission received four grants totaling \$77,500 to underwrite its expenses. Two grants of \$30,000 each were received from the New Hampshire Bar Foundation and the New Hampshire Charitable Foundation. Grants of \$10,000 and \$7,500 were received from two donor-designated funds administered by the New Hampshire Charitable Foundation.

Expenses totaled \$80,000, including the following major expenses:

UNH Survey Research Center Survey:	\$25,000
Administrative Support:	\$29,000
Website Expenses:	\$11,000
Meeting Expenses	\$ 4,500
Final Report Editing, Design & Printing	\$10,500
TOTAL:	\$80,000

# Appendix G

## Accessibility Resources Prepared for the Commission

### New Hampshire Courts Access Checklist

Each New Hampshire court uses the New Hampshire Courts Access Checklist. This checklist is to be used as a guideline for basic access code compliance for facilities in the state of New Hampshire and is by no means as thorough as the 1992 CHECKLIST FOR BUILDINGS AND FACILITIES, distributed by the US Access Board, which can be found online at: <http://www.access-board.gov/adaag/checklist/pdf/a16.pdf>. Codes that apply in NH are: ADAAG, IBC 2000, ANSI A117.1-1998, UFAS, the NH State Building Code and the NH Architectural Barrier-Free Design Code.

### Public Access for Courts Online Resources

Public access for online resources and technical assistance can be found in the Research Committee reports at [www.nhcitcourts.org](http://www.nhcitcourts.org) or by requesting technical assistance through the following State and Federal resources:

#### NH Governor's Commission on Disability

- Cheryl L. Killam, Accessibility Specialist,  
271-4177; [cheryl.killam@nh.gov](mailto:cheryl.killam@nh.gov)

#### The New England ADA Technical Assistance and I.T. Center

- 1-800-949-4232 <http://www.adaptenv.org/neada/index.php>

#### U.S. Department of Justice Information Line for the Americans with Disabilities Act

- 1-800-514-0301
- Text of the ADA law: <http://www.usdoj.gov/crt/ada/pubs/ada.txt>
- U.S. DOJ ADA home page: <http://www.usdoj.gov/crt/ada/adahom1.htm>





NH CITIZENS COMMISSION ON THE STATE COURTS



[www.nhcitcourts.org](http://www.nhcitcourts.org)

